

Also, petition of the American Laundry Machinery Co., Rochester, N. Y., favoring the passage of House bill 27567, for 1-cent letter postage; to the Committee on the Post Office and Post Roads.

Also, petition of Myron C. Skinner, Yorkville, Ill., favoring the passage of House bill 1339, granting an increase of pension to the veterans of the Civil War who lost an arm or leg; to the Committee on Invalid Pensions.

Also, petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, placing the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. LINTHICUM: Petition of the Enterprise Farmers' Club and other citizens of Montgomery County, Md., favoring the passage of legislation for the adoption of the great national highway from Washington, D. C., to Gettysburg, Pa., for a memorial to Abraham Lincoln; to the Committee on the Library.

By Mr. McCALL: Petition of John W. Ayres, of Somerville, Mass., favoring a subsidy for the establishment of fast mail steamers between Boston and Fishguard; to the Committee on the Post Office and Post Roads.

By Mr. NEELEY: Petition of certain citizens of Meade County, Kans., favoring the passage of the Kenyon-Sheppard bill, prohibiting the shipment of liquor into dry territory; to the Committee on the Judiciary.

By Mr. RAKER: Petition of citizens of California, favoring the passage of legislation for the establishment of a national redwood park in Humboldt County, Cal.; to the Committee on Agriculture.

Also, petition of the Chamber of Mines and Oils, protesting against any reduction in the tariff on borax and borate products; to the Committee on Ways and Means.

By Mr. SCULLY: Petition of Illinois Chapter, American Institute of Architects, protesting against the adoption of the design as adopted by the National Commission of Fine Arts for a memorial to Abraham Lincoln; to the Committee on the Library.

Also, petition of the National Society for the Promotion of Industrial Education, New York, favoring the passage of Senate bill 3, for Federal aid for vocational education; to the Committee on Agriculture.

Also, petition of the Eastern Talking Machine Dealers' Association, New York, protesting against the passage of section 2 of the Oldfield patent bill, prohibiting the fixing of prices by the manufacturers of patent goods; to the Committee on Patents.

Also, petition of the Board of Trade of Newark, N. J., favoring the passage of legislation for the establishment of a term of Federal court in Newark, N. J.; to the Committee on the Judiciary.

By Mr. UNDERHILL: Petition of a German-American mass meeting, New York, protesting against the passage of House bill 8141, to place the State militia on the national pay roll; to the Committee on Military Affairs.

By Mr. WILLIS: Petition of S. M. Overfield and 2 other citizens of Woodstock, Ohio, and of Kite & Tomlin and 13 other citizens of St. Paris, Ohio, favoring the passage of legislation compelling concerns selling direct to the consumer by mail to contribute their portion of the funds for the development of the local community, county, etc.; to the Committee on Interstate and Foreign Commerce.

SENATE.

TUESDAY, January 21, 1913.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CULLOM and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ELECTORS FOR PRESIDENT AND VICE PRESIDENT.

The PRESIDENT pro tempore (Mr. GALLINGER) laid before the Senate a communication from the Secretary of State, transmitting, pursuant to law, an authentic copy of the final ascertainment of electors for President and Vice President appointed in the State of Tennessee at the election held in that State on November 5, 1912, which was ordered to be filed.

IRRIGATION IN WESTERN KANSAS AND OKLAHOMA (S. DOC. NO. 1021).

The PRESIDENT pro tempore laid before the Senate a communication from the Secretary of Agriculture, transmitting, pursuant to law, a report of an investigation of the feasibility and economy of irrigation from reservoirs in western Kansas

and Oklahoma, which, with the accompanying papers and illustrations, was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 27062) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House further insists upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, disagreed to by the Senate; agrees to the further conference asked for by the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts managers at the conference on the part of the House.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and had appointed Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL managers at the conference on the part of the House.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia;

H. R. 21532. An act to incorporate the Rockefeller Foundation;

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes;

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20;

H. R. 26549. An act to provide for the construction or purchase of motor boat for customs service;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands;

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois;

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho; and

H. J. Res. 369. Joint resolution authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass.

The message further announced that the House had passed resolutions commemorative of the life, character, and public services of Hon. DAVID JOHNSON FOSTER, late a Representative from the State of Vermont.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the President pro tempore:

S. 7637. An act to authorize the construction of a railroad bridge across the Illinois River near Havana, Ill.;

H. R. 45. An act affecting the town sites of Timber Lake and Dupree, in South Dakota;

H. R. 3769. An act for the relief of Theodore N. Gates;

H. R. 14925. An act to amend an act to parole United States prisoners, and for other purposes, approved June 25, 1910;

H. R. 22010. An act to amend the license law, approved July 1, 1902, with respect to licenses of drivers of passenger vehicles for hire;

H. R. 22437. An act for the relief of the heirs of Anna M. Torresson, deceased;

H. R. 23001. An act to amend section 4472 of the Revised Statutes of the United States relating to the carrying of dangerous articles on passenger steamers;

H. R. 24137. An act to refund to the National Cartage & Warehouse Co., of New York City, N. Y., excess duty;

H. R. 25515. An act for the relief of Joshua H. Hutchinson;

H. R. 25764. An act to subject lands of former Fort Niobrara Military Reservation and other lands to homestead entry;

H. R. 25878. An act granting certain lands for a cemetery to the Fort Bidwell People's Church Association, of the town of Fort Bidwell, State of California, and for other purposes;

H. J. Res. 239. Joint resolution authorizing the Secretary of War to deliver a condemned cannon to the Army and Navy Union, United States of America; and

S. J. Res. 150. Joint resolution appropriating \$40,000 for expenses of inquiries and investigations ordered by the Senate.

PETITIONS AND MEMORIALS.

The PRESIDENT pro tempore presented the petition of A. W. Lawson, of New York City, praying that an appropriation be made for the organization of an aerial fleet for the American Navy, which was referred to the Committee on Naval Affairs.

Mr. WETMORE presented a memorial of the congregation of the Seventh-day Adventist Church of Westerly, R. I., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was ordered to lie on the table.

Mr. TOWNSEND presented memorials of the congregations of the Seventh-day Adventist Churches of Mason, Owosso, and Coldwater, all in the State of Michigan, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. BRISTOW presented a petition of sundry citizens of Meade, Kans., praying for the passage of the so-called Kenyon-Sheppard interstate liquor bill, which was ordered to lie on the table.

Mr. GARDNER presented a petition of Local Grange, Patrons of Husbandry, of Wayne, Me., praying for the passage of the so-called Page vocational education bill, which was ordered to lie on the table.

He also presented a memorial of members of the Pierian Club of Presque Isle, Me., remonstrating against the transfer of the control of the national forests to the several States, which was referred to the Committee on Forest Reservations and the Protection of Game.

He also presented a memorial of Local Branch, German-American Alliance, of Lisbon Falls, Me., and a memorial of the German-American Alliance of Maine, remonstrating against the passage of the so-called Kenyon-Sheppard interstate liquor bill, which were ordered to lie on the table.

Mr. MYERS. I present resolutions adopted at a meeting of the railroad brotherhood's joint legislative board of Montana, which I ask may lie on the table and be printed in the Record.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the Record, as follows:

RAILROAD BROTHERHOOD JOINT LEGISLATIVE BOARD OF MONTANA, Held at Helena, January 4, 1913.

Hon. HENRY L. MYERS,
United States Senate, Washington, D. C.

DEAR SENATOR: At a meeting of the railroad brotherhoods' joint legislative board, consisting of delegates from all divisions and lodges of the Order of Railway Conductors, Brotherhood of Railroad Trainmen, Brotherhood of Locomotive Engineers, and Brotherhood of Locomotive Firemen and Enginemen the following resolution was passed:

Resolved, That this joint board indorse the resolution presented to the United States Senate by United States Senator HENRY L. MYERS, of Montana, in behalf of the Brotherhood of Locomotive Engineers, against Senate bill 5382 and House bill 20487, workmen's compensation law, under date of April 10, 1912, and printed in the CONGRESSIONAL RECORD of May 6, 1912; and be it further

Resolved, That we are opposed to any substitute legislation that may interfere with our present liability laws.

Respectfully submitted.

JAMES O'RILEY, Chairman.
J. H. HALL, Acting Secretary.

Mr. MYERS. I present a memorial signed by citizens of Missoula, Mont., remonstrating against the parole of Federal life prisoners as provided in House bill 14925. I ask that the memorial lie on the table and be printed in the Record.

There being no objection, the memorial was ordered to lie on the table and to be printed in the Record, as follows:

To the honorable Senate and House of Representatives in Congress assembled:

The undersigned citizens of Missoula, Mont., respectfully remonstrate against the parole of Federal life prisoners as provided in H. R. 14925, as follows, to wit: "That every prisoner who has been or may hereafter be convicted of any offense against the United States and is confined in execution of the judgment of such conviction in any United States penitentiary or prison for a definite term or terms of over one year, or for the term of his natural life, whose record of conduct shows that he has observed the rules of such institution, and who, if sentenced for a definite term, has served one-third of the total of such term or terms for which he was sentenced, or, if sentenced for the term of his natural life, has served not less than 15 years, may be released on parole as hereafter provided."

F. S. LUSK, Banker, Missoula, Mont.
E. A. NEWTON, Banker, Missoula, Mont.
F. H. ELMORE, Banker, Missoula, Mont.

Mr. OLIVER presented a petition of the Men's Brotherhood of the Baptist Church of Montrose, Pa., and a petition of the

congregation of the Bridgewater Baptist Church, of Montrose, Pa., praying for the passage of the so-called Kenyon-Sheppard interstate liquor law, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of San Francisco, Cal., remonstrating against the adoption of certain amendments to the law relating to bills of lading, which was referred to the Committee on Commerce.

Mr. BRANDEGEE presented a petition of the executive board of the Audubon Society of Connecticut, praying for the enactment of legislation providing for the protection of migratory birds, which was ordered to lie on the table.

Mr. SHIVELY presented memorials of A. H. Keck, Merritt C. Beale, Charles B. Eddy, M. C. Price, Rev. Frank K. Dougherty, and 139 other citizens of South Bend, Ind., remonstrating against the repeal of the law providing for the closing of post offices on Sunday, which were referred to the Committee on Post Offices and Post Roads.

He also presented memorials of the congregations of the Seventh-day Adventist Churches of Boggstown and Fort Wayne, in the State of Indiana, remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which were ordered to lie on the table.

Mr. FLETCHER presented a memorial of the Scott Bros. Co., of Arcadia, Fla., remonstrating against a reduction of the duty on citrus fruits, which was referred to the Committee on Finance.

Mr. GRONNA presented a memorial of sundry citizens of Fargo, N. Dak., remonstrating against a reduction of the duty on harness and saddles, which was referred to the Committee on Finance.

Mr. PENROSE presented a memorial of the Board of Trade of Philadelphia, Pa., remonstrating against the enactment of legislation to abolish involuntary servitude imposed upon seamen in the merchant marine of the United States while in foreign ports, etc., which was referred to the Committee on Commerce.

Mr. JOHNSON of Maine presented telegrams in the nature of petitions from S. L. Merriman, principal of the Aroostook State Normal School; of Albert F. Richardson, of the State Normal Schools, of Castine; of Mrs. Stanley Plummer, president of the Maine Federation of Women's Clubs; of D. J. Callahan, superintendent of schools of Lewiston; of F. G. Wadsworth, president of the Maine Superintendents' Association; of Charles N. Perkins, of Waterville; of Payson Smith, State superintendent of public schools, of Augusta; of H. H. Randall, superintendent of schools, of Auburn; of W. G. Mallett, of Farmington; of W. L. Powers, principal of the Normal School of Machias; and of Androscooggin Grange, No. 8, Patrons of Husbandry, of Greene, all in the State of Maine, praying for the passage of the so-called Page vocational education bill, which were ordered to lie on the table.

Mr. GALLINGER presented a petition of the congregation of the First Universalist Church of Dover, N. H., and a petition of the congregation of the Evangelical Congregational Church of Charlestown, N. H., praying for the passage of the so-called Kenyon-Sheppard interstate-liquor bill, which were ordered to lie on the table.

He also presented a petition of members of the Woman's Club of Berlin, N. H., praying that an appropriation be made for the erection of a Federal building in that city, which was referred to the Committee on Public Buildings and Grounds.

OLD NEWBURY HISTORICAL SOCIETY OF MASSACHUSETTS.

Mr. LODGE, from the Committee on Finance, to which was referred the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported it without amendment.

THE MESA VERDE.

Mr. CURTIS. From the Committee on Indian Affairs I desire to make a favorable report, and because of the importance of the case I ask unanimous consent for the immediate consideration of the bill. I report back favorably from that committee, without amendment, the bill (S. 5678) to ratify an agreement with the Weeminuche (or Wiminuche), and hereafter referred to as the Wiminuche Band of Southern Ute Indians in Colorado, for the relinquishment to the United States of their rights to occupancy of the tract of land known as the Mesa Verde; and I submit a report (No. 1133) thereon.

The PRESIDENT pro tempore. The bill will be read for the information of the Senate.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. CURTIS. I ask that the letters of the Secretary of the Interior recommending the passage of the bill be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 21, 1912.

HON. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs, United States Senate.

SIR: In the Indian appropriation act approved March 3, 1903 (32 Stat. L., 998), it is provided:

"That the Secretary of the Interior be, and he is hereby, directed to negotiate with the Weeminuchi Ute Tribe of Indians for the relinquishment of their right of occupancy to the United States of the tract of land known as the Mesa Verde, a part of the reservation of said tribe, situate in the county of Montezuma, in the State of Colorado, the said tract to include and cover the ruins and prehistoric remains situate therein. And the Secretary of the Interior shall report to the next session of Congress the terms and conditions upon which the said tribe of Indians will relinquish to the United States their right of occupancy to said tract of land."

By departmental letter of March 18, 1903, Joseph O. Smith, United States Indian agent in charge of the Southern Ute Agency, Colo., was designated to conduct negotiations with the Indians. Agent Smith held a council with the Weeminuche Band of Southern Ute Indians in the fall of 1903, but the Indians, through their chiefs, refused to enter into any agreement for the cession of that part of their reservation known as the Mesa Verde.

This question was taken up with the Indians in council in June and August, 1904, by William M. Peterson, superintendent in charge of the Fort Lewis School, Colorado, but the Indians were still obdurate and refused to consider an agreement to relinquish any of their reservation.

This question was presented further to them by Supt. U. L. Clardy, in charge of the Navajo Springs Reservation, in the summer of 1910, at which time, as is shown by the records, the matter was thoroughly gone into with the Indians, who absolutely refused to come to any terms.

Under departmental instructions of April 20, 1911, this question was again taken up with the Indians by F. H. Abbott, Assistant Commissioner of Indian Affairs, and James McLaughlin, United States Indian Inspector.

These officers arrived at the Navajo Springs Indian Agency, Colo., on May 4, 1911, and on the following day held a council with the Indians and carefully explained to them what was wanted. The Indians were reluctant to entertain any proposition to relinquish their lands, and it was suggested to them that a committee of their leading men be appointed to accompany Mr. Abbott and Inspector McLaughlin to Mesa Verde, that these officers might point out to them the land wanted and that offered in exchange. These officers, accompanied by the Indian committee, visited the Mesa Verde National Park, as created by the act approved June 29, 1906 (34 Stats., 616), and ascertained that the park did not contain important prehistoric ruins, these being situated within the Southern Ute Reservation in township 34 north, range 15 west, adjoining the national park, the area embracing the ruins being about 53 miles in length, extending south into the Indian reservation about 33 miles from its northern boundary line.

After the committee of the tribal council had made its report to the council, negotiations with the Indians were resumed and an agreement reached whereby they agreed to accept in exchange for the land in the reservation containing historic ruins two certain tracts of land bordering on their reservation, one of which is within the present Mesa Verde National Park, containing approximately 7,840 acres, and the other situated in what is known as the Ute Mountain district, containing approximately 19,520 acres, a total of 27,360.

It is pointed out by Messrs. Abbott and McLaughlin that while the agreement provides for giving the Indians from the public domain about 2 acres for 1 relinquished, yet they call attention to the fact that the Ute Mountain tract is of little value, being rough and mountainous and largely devoid of vegetation, and say that its proximity, however, to the Navajo Springs superintendency, adjacent to the present habitations of the Indians, and upon which their stock now range, influenced them largely in assenting to the exchange as concluded.

Reports show that the total number of male adult members of the Weeminuchi Band of Southern Ute Indians on the rolls of the Navajo Springs Agency is about 108; and a certificate of the superintendent in charge of these Indians, dated Navajo Springs, Colo., May 10, 1911, shows that the 65 names attached to the agreement constitute a majority of the adult members of the band and practically all the male adults residing on the reservation.

In order that the territory wanted in exchange by the Indians may be available for them if the agreement should be ratified, the following-described lands were temporarily withdrawn from all forms of settlement, entry, sale, or other disposition, subject to any valid existing rights of any persons, to wit:

The W. 1/2 of sec. 4, sec. 5, fractional NW. 1/4 of sec. 9, fractional sec. 8, T. 34 N., R. 16 W.; sec. 32 and W. 1/2 of sec. 33, T. 35 N., R. 16 W.; sec. 5 and 6 and fractional sec. 7 and 8, T. 34 N., R. 17 W.; sec. 1, 2, 3, 4, and 5 and fractional sec. 8, 9, 10, 11, and 12, T. 34 N., R. 18 W.; sec. 19, 20, 29, 30, 31, and 32, T. 35 N., R. 17 W.; and sec. 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36, T. 35 N., R. 18 W., of the New Mexico principal meridian; all of which lands are situate north of the northern boundary line of the Southern Ute Indian Reservation and in Montezuma County, Colo.

In the discussions had with the Indians, both at the council proceedings and on the grounds themselves, when the committee appointed by the council in conjunction with Inspector McLaughlin and Assistant Commissioner Abbott visited the scenes of the prehistoric ruins, it was understood that "the Balcony House," one of the most important ruins, was to be included in the lands which the Indians agreed to surrender. The Indians themselves understood this and so expressed themselves to the representatives of the Government in the council assembled. A subsequent survey, however, made under the direction of the Geological Survey, discloses that "the Balcony House" is situated just below the south line of the proposed addition to the park, as defined in the agreement.

It becomes necessary, therefore, in order to take in these ruins, which the Indians understood were included in the description given

in their agreement, to slightly modify the description as given by extending the southern boundary 30 chains farther south. The additional area included thereby in the addition to the park embraces approximately 1,320 acres, for which it is proposed to surrender to the Indians as an addition to their reservation all of sec. 26 and 27 and the SE. 1/4 of sec. 28, T. 35 N., R. 16 W., New Mexico principal meridian, now a part of the Mesa Verde National Park, but in which no ruins of importance exist, 1,440 acres.

After the agreement hereinbefore mentioned was entered into with the Indians and filed with the department, Ralph W. Berry, assistant topographer, and R. B. Marshall, chief geographer, both of the Geological Survey, who during the summer of 1911 had made an inspection of the topographic survey in the park vicinity, suggested that the western, northern, and eastern boundary lines of the park be changed as indicated on the map inclosed and shown by the draft of bill, and Mr. Marshall, in letter of January 23, 1912, copy herewith, gives the reasons why, in his judgment, these changes should be made, and recommends that the boundary lines be amended accordingly.

If these changes in said boundary lines are made, sec. 36, 25, 26, 27, and the SE. 1/4 sec. 28, T. 35 N., R. 16 W.; also the SE. 1/4 sec. 6, SE. 1/4 sec. 9, and the NE. 1/4 sec. 16, T. 35 N., R. 14 W., will be eliminated, and the W. 1/2 sec. 6 and the NW. 1/4 of fractional sec. 7 (unsurveyed), T. 34 N., R. 16 W., "north of the Ute boundary," which it was originally intended to give the Indians in the exchange, will remain a part of the park.

And lands described as follows, not within the park, will be included therein:

Sec. 19, W. 1/2 sec. 20, the NE. 1/4 sec. 20, the S. 1/2 sec. 14, T. 35 N., R. 15 W., the NW. 1/4 sec. 7, the N. 1/2 sec. 5, the NE. 1/4 sec. 22, T. 35 N., R. 14 W., and all land east of the eastern boundary of the park, from a point on the east bank of the Mancos River directly east of the northeast corner of the NW. 1/4 sec. 26, T. 35 N., R. 14 W., south along the east bank of said river to a point where said river intersects the northern boundary of the Southern Ute Indian Reservation.

Originally it was intended that the SE. 1/4 of sec. 28, sec. 25, 26, 27, and 36, T. 35 N., R. 16 W., should be retained in the park, but on the recommendation of Mr. Marshall the west line was changed, as indicated on the map and in the draft of bill, and it is now proposed to give these lands to the Indians in addition to those covered by the agreement; also sec. 36, T. 35 N., R. 18 W. This is a school section, as is also sec. 36, T. 35 N., R. 16 W., but the records of the General Land Office show that the State has selected other lands in lieu of them.

Provision has also been made in the draft of bill for extinguishing the jurisdiction of the department over prehistoric ruins within what is known as the Five Mile Strip on lands adjacent to the eastern, western, and northern boundaries of the park.

The inclosed map shows the boundary of the Mesa Verde National Park as originally established, the proposed new boundary, the northern boundary of the Southern Ute Indian Reservation, the boundary of the tract proposed to be relinquished by the Indians, together with the enlargement thereof necessary to include the "Balcony House" and the lands within the Mesa Verde National Park and on the public domain which it is proposed to give the Indians in exchange.

In the agreement the lands proposed to be ceded to the Government by the Indians and part of the lands to be given the Indians by the Government in exchange are incorrectly described, as the agreement recites that they are in township 34 north. The proper description of these lands is township 34 north, with the correct range, and "south of the Ute boundary," or north thereof, as the case may be, and in the body of the proposed act this description has been followed so far as said township is concerned.

By the agreement, as modified, 14,520 acres within the reservation, containing important ruins, will be acquired by the United States, for which the Indians will receive in exchange 30,240 acres. The department is satisfied that the Indians thoroughly understand the conditions, and they have expressed a willingness, practically unanimous, to surrender the lands wanted on the terms set forth in their agreement.

Accordingly a bill has been prepared and is transmitted herewith, accepting and ratifying the agreement of May 10, 1911, as modified, in order to take in certain lands containing important ruins, which the Indians understood they were giving up and which they agreed to surrender.

A copy of the joint report of Inspector McLaughlin and Assistant Commissioner Abbott is inclosed herewith for your information.

The department would be pleased to see the suggested legislation given favorable consideration by your committee and the Congress.

Very respectfully,

SAMUEL ADAMS, Acting Secretary.

DEPARTMENT OF THE INTERIOR,
Washington, July 19, 1912.

MY DEAR SENATOR: My attention has been directed to the bill (S. 5678) pending before your committee in connection with the Mesa Verde National Park, upon which it is desirable to secure action at this session of Congress if practicable. It appears that the present limits of the Mesa Verde Park do not include some of the more important ruins and points of interest, and that negotiations have been had with the Indians to provide for an exchange of lands by which the park can be appropriately extended. It is desirable that the transaction should be perfected as promptly as practicable, and for this purpose the passage of the pending bill is necessary.

Yours, very truly,

WALTER L. FISHER, Secretary.

HON. ROBERT J. GAMBLE,
Chairman Committee on Indian Affairs,
United States Senate.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WETMORE:

A bill (S. 8212) granting a pension to Eric Edin (with accompanying papers); to the Committee on Pensions.

By Mr. OLIVER:

A bill (S. 8213) granting an increase of pension to Stephen B. Johnson (with accompanying papers); to the Committee on Pensions.

By Mr. SMITH of Maryland:

A bill (S. 8214) to provide for the permanent marking of the spot within the walls of Fort McHenry where the flagstaff was

planted at the Battle of North Point; to the Committee on Military Affairs.

By Mr. KERN:

A bill (S. 8215) granting an increase of pension to William H. Sumption (with accompanying papers); and

A bill (S. 8216) granting an increase of pension to Aaron B. Waggoner (with accompanying papers); to the Committee on Pensions.

By Mr. MARTIN of Virginia:

A bill (S. 8217) authorizing the extension of Seventeenth, Evans, and Bryant Streets NE., in the District of Columbia; to the Committee on the District of Columbia.

By Mr. GARDNER:

A bill (S. 8218) granting a pension to Emily L. Dow (with accompanying papers);

A bill (S. 8219) granting an increase of pension to William O. Steele (with accompanying papers);

A bill (S. 8220) granting an increase of pension to Charles Burns; and

A bill (S. 8221) granting an increase of pension to Peter Prock (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 8222) for the relief of Edward William Bailey; to the Committee on Claims.

By Mr. PENROSE:

A bill (S. 8223) granting an increase of pension to Eugene Lenhart; and

A bill (S. 8224) granting a pension to Ida E. Carter; to the Committee on Pensions.

A bill (S. 8225) granting an honorable discharge to James Kennedy (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 8226) granting a pension to Kate G. Caton (with accompanying papers); to the Committee on Pensions.

By Mr. GALLINGER:

A bill (S. 8227) for the relief of Charlotte J. Pile, Eastmond P. Green, and Easie C. Gandell, owners of lots Nos. 53, 54, and 55, in square No. 753, Washington, D. C., with regard to assessment and payment of damages on account of change of grade due to construction of the Union Station in said District (with accompanying papers); to the Committee on the District of Columbia.

By Mr. BROWN:

A bill (S. 8228) granting a pension to Ida M. Smith; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 8229) granting a pension to Melissa J. Chandler (with accompanying papers); to the Committee on Pensions.

By Mr. POMERENE:

A bill (S. 8230) for the relief of Loren W. Greeno; to the Committee on Naval Affairs.

By Mr. STEPHENSON:

A bill (S. 8231) granting an increase of pension to James Jameson (with accompanying paper); to the Committee on Pensions.

REGENT OF SMITHSONIAN INSTITUTION.

Mr. CULLOM. I introduce a joint resolution and ask unanimous consent that it be put on its passage.

The joint resolution (S. J. Res. 156) to appoint George Gray a member of the Board of Regents of the Smithsonian Institution was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That the vacancy in the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, shall be filled by the reappointment of George Gray, a citizen of Delaware.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE INAUGURAL CEREMONIES.

Mr. OVERMAN. I introduce the following joint resolution and ask unanimous consent for its present consideration.

The joint resolution (S. J. Res. 157) to enable the Secretary of the Senate and the Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States on March 4, 1913, was read the first time by its title, and the second time at length, as follows:

Resolved, etc., That to enable the Secretary of the Senate and Clerk of the House of Representatives to pay the necessary expenses of the inaugural ceremonies of the President of the United States March 4,

1913, in accordance with such program as may be adopted by the joint committee of the Senate and House of Representatives, appointed under a concurrent resolution of the two Houses, including the pay for extra police for three days, at \$3 per day, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, \$25,000, or so much thereof as may be necessary, the same to be immediately available.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. GRONNA submitted an amendment providing for a fair to be held at Fort Totten, N. Dak., and proposing to appropriate \$1,000, to be expended under the direction and supervision of the superintendent of the Fort Totten Indian School, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JONES submitted an amendment proposing to appropriate \$1,800,000, to be expended by the Reclamation Service for the purpose of constructing storage reservoirs to impound flood waters of the Yakima River, on the Yakima Indian Reservation, State of Washington, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. MYERS submitted an amendment providing that in all cases where Indians have taken or may hereafter take homesteads or have been or may hereafter be allotted lands upon the public domain, they and their respective families and descendants shall not thereby forfeit their rights to the lands and funds of the tribe to which they belong, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. GUGGENHEIM submitted an amendment proposing to settle and adjust the rights under existing treaties and laws of the White River Utes and Southern Utes and other bands of Ute Indians known as the Confederated band of Ute Indians of Colorado, etc., intended to be proposed by him to the Indian appropriation bill, which was referred to the Committee on Indian Affairs and ordered to be printed.

Mr. JOHNSON of Maine submitted an amendment proposing to appropriate \$10,000 for completing the improvement of Bass Harbor Bar, Me., etc., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

Mr. DU PONT submitted an amendment proposing that whenever any officer, who has been retired for disability, is found by an examining board, to be appointed by the Secretary of War, to be physically and mentally qualified for active service, the President may, in his discretion, reinstate such officer upon the active list as an extra officer, etc., intended to be proposed by him to the Army appropriation bill, which was referred to the Committee on Military Affairs and ordered to be printed.

Mr. CULBERSON submitted an amendment providing for the improvement of the Houston Ship Channel, Tex., intended to be proposed by him to the river and harbor appropriation bill, which was referred to the Committee on Commerce and ordered to be printed.

He also submitted an amendment proposing to appropriate \$217,693.39 to reimburse the State of Texas in full payment of all claims on account of expenses incurred by that State prior to February 9, 1861, etc., intended to be proposed by him to the general deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

WITHDRAWAL OF PAPERS—MARTHA E. PATTERSON.

On motion of Mr. TOWNSEND, it was

Ordered, That the papers accompanying the bill (S. 7868) granting a pension to Martha E. Patterson. Sixty-second Congress, third session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

COUNTING OF THE ELECTORAL VOTE.

Mr. DILLINGHAM. I offer the following concurrent resolution, for the immediate consideration of which I ask unanimous consent.

The concurrent resolution (S. Con. Res. 35) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring). That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 12th day of February, 1913, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate

pro tempore shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate pro tempore, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate pro tempore, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

EMPLOYMENT OF STENOGRAPHERS.

Mr. MARTIN of Virginia submitted the following resolution (S. Res. 437), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay for two stenographers to Senators who are not chairmen of committees, at \$1,200 each per annum, from January 11 and January 20, 1913, respectively, to be paid from the contingent fund of the Senate until the expiration of the present Congress.

OMNIBUS CLAIMS BILL.

Mr. CRAWFORD. The Senate document room report that they have but one copy left of House bill 19115, the omnibus claims bill, and that there are frequent demands for it by parties interested. I ask that an order be made for printing 200 additional copies to supply the demand.

There being no objection, the order was agreed to, and it was reduced to writing, as follows:

Ordered, That 200 additional copies of the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, be printed for the use of the Senate document room.

Mr. NEWLANDS. Mr. President, the other day I entered a motion to reconsider the vote by which the omnibus claims bill was passed. I should be glad to have that motion considered now and to have the Senate consider the amendment which I have to offer to the bill.

Mr. CRAWFORD. Mr. President, I have no objection to that course. On the part of the committee I practically agreed to it, with the understanding that it was not to open the door for a rediscussion of the bill and new amendments, but simply to give the Senator from Nevada an opportunity to be heard regarding a class of cases he wished to have incorporated in the bill. I raise no objection and agree that that may be done.

Mr. LODGE. I should like to call the attention of the Senator from Nevada to the fact that the Senator from New York [Mr. Root] gave notice, which has appeared on the calendar for some days, that he would desire to address the Senate to-day at the close of the routine morning business.

Mr. NEWLANDS. Then I will bring up the matter after the Senator from New York has concluded his remarks. I ask that the order of reconsideration be entered.

The PRESIDENT pro tempore. It has been entered.

EIGHT-HOUR LAW.

Mr. McCUMBER. Yesterday there was passed by the Senate the bill (H. R. 18787) relating to the limitation of the hours of daily service of laborers and mechanics employed upon a public work of the United States and of the District of Columbia, and of all persons employed in constructing, maintaining, or improving a river or harbor of the United States and of the District of Columbia. There were very few in the Senate at the time the bill was passed. I desire to make a motion at this time to reconsider the vote by which the bill was passed and to allow that motion to remain until at least after the Senator from New York has completed his remarks or until the Senator reporting the bill is present in the Senate. So I ask that the bill may be held in abeyance until I can call up the motion and have it acted upon at a future time.

The PRESIDENT pro tempore. The motion for reconsideration will be entered.

ANNUAL REPORT OF THE PHILIPPINE COMMISSION (H. DOC. NO. 1293).

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was read, ordered to be printed, and, with the accompanying paper, referred to the Committee on the Philippines:

To the Senate and House of Representatives:

I transmit herewith, for the information of the Congress, the Thirteenth Annual Report of the Philippine Commission for the fiscal year ended June 30, 1912, together with the reports

of the Governor General and the secretaries of the four executive departments of the Philippine government for the same period.

WM. H. TAFT.

THE WHITE HOUSE, January 21, 1913.

INDIANS OCCUPYING RAILROAD LANDS.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 5674) for the relief of Indians occupying railroad lands.

Mr. CURTIS. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. GAMBLE, Mr. CURTIS, and Mr. ASHURST conferees on the part of the Senate.

BUREAU OF MINES.

The PRESIDENT pro tempore laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 17260) to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. POINDEXTER. I move that the Senate insist upon its amendments, agree to the conference asked for by the House, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. POINDEXTER, Mr. SUTHERLAND, and Mr. TILMAN conferees on the part of the Senate.

HOUSE BILLS REFERRED.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 23351. An act to amend an act entitled "An act to provide for an enlarged homestead";

H. R. 25780. An act to amend section 3186 of the Revised Statutes of the United States;

H. R. 26812. An act to provide for selection by the State of Idaho of phosphate and oil lands; and

H. J. Res. 326. Joint resolution providing for extending provisions of the act authorizing extension of payments to homesteaders on the Coeur d'Alene Indian Reservation, Idaho.

The following bills were severally read twice by their titles and referred to the Committee on the Judiciary:

H. R. 21532. An act to incorporate the Rockefeller Foundation; and

H. R. 24194. An act to create a new division of the western judicial district of Texas and to provide for terms of court at Pecos, Tex., and for other purposes.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 26549. An act to provide for the construction or purchase of motor boats for customs service; and

H. R. 27157. An act granting an extension of time to construct a bridge across Rock River at or near Colona Ferry, in the State of Illinois.

H. R. 16319. An act to extend and widen Western Avenue NW., in the District of Columbia, was read twice by its title and referred to the Committee on the District of Columbia.

H. R. 26279. An act granting the Fifth-Third National Bank, of Cincinnati, Ohio, the right to use original charter No. 20, was read twice by its title and referred to the Committee on Finance.

PANAMA CANAL TOLLS.

Mr. ROOT. Mr. President, in the late days of last summer, after nearly nine months of continuous session, Congress enacted, in the bill to provide for the administration of the Panama Canal, a provision making a discrimination between the tolls to be charged upon foreign vessels and the tolls to be charged upon American vessels engaged in coastwise trade. We all must realize, as we look back, that when that provision was adopted the Members of both Houses were much exhausted; our minds were not working with their full vigor; we were weary physically and mentally. Such discussion as there was was empty sents. In neither House of Congress, during the period that this provision was under discussion, could there be found more than a scant dozen or two of Members. The provision has been the cause of great regret to a multitude of our fellow citizens, whose good opinion we all desire and whose leadership of opinion in the country makes their approval of the

course of our Congress an important element in maintaining that confidence in government which is so essential to its success. The provision has caused a painful impression throughout the world that the United States has departed from its often-announced rule of equality of opportunity in the use of the Panama Canal, and is seeking a special advantage for itself in what is believed to be a violation of the obligations of a treaty. Mr. President, that opinion of the civilized world is something which we may not lightly disregard. "A decent respect to the opinions of mankind" was one of the motives stated for the people of these colonies in the great Declaration of American Independence.

The effect of the provision has thus been doubly unfortunate, and I ask the Senate to listen to me while I endeavor to state the situation in which we find ourselves; to state the case which is made against the action that we have taken, in order that I may present to the Senate the question whether we should not either submit to an impartial tribunal the question whether we are right; so that if we are right, we may be vindicated in the eyes of all the world, or whether we should not, by a repeal of the provision, retire from the position which we have taken.

In the year 1850, Mr. President, there were two great powers in possession of the North American Continent to the north of the Rio Grande. The United States had but just come to its full stature. By the Webster-Ashburton treaty of 1842 our northeastern boundary had been settled, leaving to Great Britain that tremendous stretch of seacoast including Nova Scotia, New Brunswick, Newfoundland, Labrador, and the shores of the Gulf of St. Lawrence, now forming the Province of Quebec. In 1846 the Oregon boundary had been settled, assuring to the United States a title to that vast region which now constitutes the States of Washington, Oregon, and Idaho. In 1848 the treaty of Guadalupe-Hidalgo had given to us that great empire wrested from Mexico as a result of the Mexican War, which now spreads along the coast of the Pacific as the State of California and the great region between California and Texas.

Inspired by the manifest requirements of this new empire, the United States turned its attention to the possibility of realizing the dream of centuries and connecting its two coasts—its old coast upon the Atlantic and its new coast upon the Pacific—by a ship canal through the Isthmus; but when it turned its attention in that direction it found the other empire holding the place of advantage. Great Britain had also her coast upon the Atlantic and her coast upon the Pacific, to be joined by a canal. Further than that, Great Britain was a Caribbean power. She had Bermuda and the Bahamas; she had Jamaica and Trinidad; she had the Windward Islands and the Leeward Islands; she had British Guiana and British Honduras; she had, moreover, a protectorate over the Mosquito coast, a great stretch of territory upon the eastern shore of Central America which included the river San Juan and the valley and harbor of San Juan de Nicaragua, or Greytown. All men's minds then were concentrated upon the Nicaragua Canal route, as they were until after the treaty of 1901 was made.

And thus when the United States turned its attention toward joining these two coasts by a canal through the Isthmus it found Great Britain in possession of the eastern end of the route which men generally believed would be the most available route for the canal. Accordingly, the United States sought a treaty with Great Britain by which Great Britain should renounce the advantage which she had and admit the United States to equal participation with her in the control and the protection of a canal across the Isthmus. From that came the Clayton-Bulwer treaty.

Let me repeat that this treaty was sought not by England but by the United States. Mr. Clayton, who was Secretary of State at the time, sent our minister to France, Mr. Rives, to London for the purpose of urging upon Lord Palmerston the making of the treaty. The treaty was made by Great Britain as a concession to the urgent demands of the United States.

I should have said, in speaking about the urgency with which the United States sought the Clayton-Bulwer treaty, that there were two treaties made with Nicaragua, one by Mr. Heis and one by Mr. Squier, both representatives of the United States. Each gave, so far as Nicaragua could, great powers to the United States in regard to the construction of a canal, but they were made without authorization from the United States, and they were not approved by the Government of the United States and were never sent to the Senate. Mr. Clayton, however, held those treaties in abeyance as a means of inducing Great Britain to enter into the Clayton-Bulwer treaty. He held them practically as a whip over the British negotiators, and having accomplished the purpose they were thrown into the waste basket.

By that treaty Great Britain agreed with the United States that neither Government should "ever obtain or maintain for itself any exclusive control over the ship canal"; that neither would "make use of any protection" which either afforded to a canal "or any alliance which either" might have "with any State or people for the purpose of erecting or maintaining any fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same," and that neither would "take advantage of any intimacy, or use any alliance, connection, or influence that either" might "possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

You will observe, Mr. President, that under these provisions the United States gave up nothing that it then had. Its obligations were entirely looking to the future; and Great Britain gave up its rights under the protectorate over the Mosquito coast, gave up its rights to what was supposed to be the eastern terminus of the canal. And, let me say without recurring to it again, under this treaty, after much discussion which ensued as to the meaning of its terms, Great Britain did surrender her rights to the Mosquito coast, so that the position of the United States and Great Britain became a position of absolute equality. Under this treaty also both parties agreed that each should "enter into treaty stipulations with such of the Central American States as they" might "deem advisable for the purpose"—I now quote the words of the treaty—"for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same."

That declaration, Mr. President, is the cornerstone of the rights of the United States upon the Isthmus of Panama, rights having their origin in a solemn declaration that there should be constructed and maintained a ship canal "between the two oceans for the benefit of mankind, on equal terms to all."

In the eighth article of that treaty the parties agreed:

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

There, Mr. President, is the explicit agreement for equality of treatment to the citizens of the United States and to the citizens of Great Britain in any canal, wherever it may be constructed, across the Isthmus. That was the fundamental principle embodied in the treaty of 1850. And we are not without an authoritative construction as to the scope and requirements of an agreement of that description, because we have another treaty with Great Britain—a treaty which formed one of the great landmarks in the diplomatic history of the world, and one of the great steps in the progress of civilization—the treaty of Washington of 1871, under which the Alabama claims were submitted to arbitration. Under that treaty there were provisions for the use of the American canals along the waterway of the Great Lakes, and the Canadian canals along the same line of communication, upon equal terms to the citizens of the two countries.

Some years after the treaty, Canada undertook to do something quite similar to what we have undertaken to do in this law about the Panama Canal. It provided that while nominally a toll of 20 cents a ton should be charged upon the merchandise both of Canada and of the United States there should be a rebate of 18 cents for all merchandise which went to Montreal or beyond, leaving a toll of but 2 cents a ton for that merchandise. The United States objected; and I beg your indulgence while I read from the message of President Cleveland upon that subject, sent to the Congress August 23, 1888. He says:

By article 27 of the treaty of 1871 provision was made to secure to the citizens of the United States the use of the Welland, St.

Lawrence, and other canals in the Dominion of Canada on terms of equality with the inhabitants of the Dominion, and to also secure to the subjects of Great Britain the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States.

The equality with the inhabitants of the Dominion which we were promised in the use of the canals of Canada did not secure to us freedom from tolls in their navigation, but we had a right to expect that we, being Americans and interested in American commerce, would be no more burdened in regard to the same than Canadians engaged in their own trade; and the whole spirit of the concession made was, or should have been, that merchandise and property transported to an American market through these canals should not be enhanced in its cost by tolls many times higher than such as were carried to an adjoining Canadian market. All our citizens, producers and consumers as well as vessel owners, were to enjoy the equality promised.

And yet evidence has for some time been before the Congress, furnished by the Secretary of the Treasury, showing that while the tolls charged in the first instance are the same to all, such vessels and cargoes as are destined to certain Canadian ports—

Their coastwise trade—

are allowed a refund of nearly the entire tolls, while those bound for American ports are not allowed any such advantage.

To promise equality and then in practice make it conditional upon our vessels doing Canadian business instead of their own, is to fulfill a promise with the shadow of performance.

Upon the representations of the United States embodying that view, Canada retired from the position which she had taken, rescinded the provision for differential tolls, and put American trade going to American markets on the same basis of tolls as Canadian trade going to Canadian markets. She did not base her action upon any idea that there was no competition between trade to American ports and trade to Canadian ports, but she recognized the law of equality in good faith and honor; and to this day that law is being accorded to us and by each great Nation to the other.

I have said, Mr. President, that the Clayton-Bulwer treaty was sought by us. In seeking it we declared to Great Britain what it was that we sought. I ask the Senate to listen to the declaration that we made to induce Great Britain to enter into that treaty—to listen to it because it is the declaration by which we are in honor bound as truly as if it were signed and sealed.

Here I will read from the report made to the Senate on the 5th day of April, 1900, by Senator Cushman K. Davis, then chairman of the Committee on Foreign Relations. So you will perceive that this is no new matter to the Senate of the United States and that I am not proceeding upon my own authority in thinking it worthy of your attention.

Mr. Rives was instructed to say and did say to Lord Palmerston, in urging upon him the making of the Clayton-Bulwer treaty, this:

The United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality for all.

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind.

That, sir, was the spirit of the Clayton-Bulwer convention. That was what the United States asked Great Britain to agree upon. That self-denying declaration underlaid and permeated and found expression in the terms of the Clayton-Bulwer convention. And upon that representation Great Britain in that convention relinquished her claim of vantage which she herself had for the benefit of her great North American empire for the control of the canal across the Isthmus.

Mr. CUMMINS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Iowa?

Mr. ROOT. I do, but—

Mr. CUMMINS. I will ask the Senator from New York whether he prefers that there shall be no interruptions? If he does, I shall not ask any question.

Mr. ROOT. Mr. President, I should prefer it, because what I have to say involves establishing the relation between a considerable number of acts and instruments, and interruptions naturally would destroy the continuity of my statement.

Mr. CUMMINS. The question I was about to ask was purely a historic one.

Mr. ROOT. I shall be very glad to answer the Senator.

Mr. CUMMINS. The Senator has stated that at the time of the Clayton-Bulwer treaty we were excluded from the Mosquito coast by the protectorate exercised by Great Britain over that coast. My question is this: Had we not at that time a treaty with New Granada that gave us equal or greater rights upon the Isthmus of Panama than were claimed even by Great Britain over the Mosquito coast?

Mr. ROOT. Mr. President, we had the treaty of 1846 with New Granada, under which we undertook to protect any railway or canal across the Isthmus. But that did not apply to the Nicaragua route, which was then supposed to be the most available route for a canal.

Mr. CUMMINS. I quite agree with the Senator about that. I only wanted it to appear in the course of the argument that we were then under no disability so far as concerned building a canal across the Isthmus of Panama.

Mr. ROOT. We were under a disability so far as concerned building a canal by the Nicaragua route, which was regarded as the available route until the discussion in the Senate after 1901, in which Senator Spooner and Senator Hanna practically changed the judgment of the Senate with regard to what was the proper route to take. And in the treaty of 1850, so anxious were we to secure freedom from the claims of Great Britain to the eastern end of the Nicaragua route that, as I have read, we agreed that the same contract should apply not merely to the Nicaragua route but to the whole of the Isthmus. So that from that time on the whole Isthmus was impressed by the same obligations which were impressed upon the Nicaragua route, and whatever rights we had under our treaty of 1846 with New Granada we were thenceforth bound to exercise with due regard and subordination to the provisions of the Clayton-Bulwer treaty.

Mr. President, after the lapse of some 30 years, during the early part of which we were strenuously insisting upon the observance by Great Britain of her obligations under the Clayton-Bulwer treaty and during the latter part of which we were beginning to be restive under our obligations by reason of that treaty, we undertook to secure a modification of it from Great Britain. In the course of that undertaking there was much discussion and some difference of opinion as to the continued obligations of the treaty. But I think that was finally put at rest by the decision of Secretary Olney in the memorandum upon the subject made by him in the year 1896. In that memorandum he said:

Under these circumstances, upon every principle which governs the relation to each other, either of nations or of individuals, the United States is completely estopped from denying that the treaty is in full force and vigor.

If changed conditions now make stipulations, which were once deemed advantageous, either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or to explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.

We did apply to Great Britain for a reconsideration of the whole matter, and the result of the application was the Hay-Pauncefote treaty. That treaty came before the Senate in two forms: First, in the form of an instrument signed on the 5th of February, 1900, which was amended by the Senate; and, second, in the form of an instrument signed on the 18th of November, 1901, which continued the greater part of the provisions of the earlier instrument, but somewhat modified or varied the amendments which had been made by the Senate to that earlier instrument.

It is really but one process by which the paper sent to the Senate in February, 1900, passed through a course of amendment; first, at the hands of the Senate, and then at the hands of the negotiators between Great Britain and the United States, with the subsequent approval of the Senate. In both the first form and the last of this treaty the preamble provides for preserving the provisions of article 8 of the Clayton-Bulwer treaty. Both forms provide for the construction of the canal under the auspices of the United States alone instead of its construction under the auspices of both countries.

Both forms of that treaty provide that the canal might be—constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares—

that being substituted for the provisions of the Clayton-Bulwer treaty under which both countries were to be patrons of the enterprise.

Under both forms it was further provided that—

Subject to the provisions of the present convention, the said Government—

The United States—

shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

That provision, however, for the exclusive patronage of the United States was subject to the initial provision that the modification or change from the Clayton-Bulwer treaty was to be for the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention.

Then the treaty as it was finally agreed to provides that the United States "adopt, as the basis of such neutralization of such ship canal," the following rules, substantially as embodied in the convention "of Constantinople, signed the 29th of Octo-

ber, 1888," for the free navigation of the Suez Maritime Canal; that is to say:

First. The canal shall be free and open * * * to the vessels of commerce and of war of all nations "observing these rules on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic, or otherwise." Such conditions and charges of traffic shall be just and equitable.

Then follow rules relating to blockade and vessels of war, the embarkation and disembarkation of troops, and the extension of the provisions to the waters adjacent to the canal.

Now, Mr. President, that rule must, of course, be read in connection with the provision for the preservation of the principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Let me take your minds back again to article 8 of the Clayton-Bulwer convention, consistently with which we are bound to construe the rule established by the Hay-Pauncefote convention. The principle of neutralization provided for by the eighth article is neutralization upon terms of absolute equality both between the United States and Great Britain and between the United States and all other powers.

It is always understood—

Says the eighth article—

by the United States and Great Britain that the parties constructing or owning the same—

That is, the canal—

shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Now, we are not at liberty to put any construction upon the Hay-Pauncefote treaty which violates that controlling declaration of absolute equality between the citizens and subjects of Great Britain and the United States.

Mr. President, when the Hay-Pauncefote convention was ratified by the Senate it was in full view of this controlling principle, in accordance with which their act must be construed, for Senator Davis, in his report from the Committee on Foreign Relations, to which I have already referred—

Mr. McCUMBER. On the treaty in its first form.

Mr. ROOT. Yes; the report on the treaty in its first form. Mr. Davis said, after referring to the Suez convention of 1888:

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888, without discrediting the official declarations of our Government for 50 years on the neutrality of an Isthmian canal and its equal use by all nations without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

But the location of the canal belongs to other governments, from whom we must obtain any right to construct a canal on their territory, and it is not unreasonable, if the question was new and was not involved in a subsisting treaty with Great Britain, that she should question the right of even Nicaragua and Costa Rica to grant to our ships of commerce and of war extraordinary privileges of transit through the canal.

I shall revert to that principle declared by Senator Davis. I continue the quotation:

It is not reasonable to suppose that Nicaragua and Costa Rica would grant to the United States the exclusive control of a canal through those States on terms less generous to the other maritime nations than those prescribed in the great act of October 22, 1888, or if we could compel them to give us such advantages over other nations it would not be creditable to our country to accept them.

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

The Suez Canal makes no discrimination in its tolls in favor of its stockholders, and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

Mr. President, in view of that declaration of principle, in the face of that declaration, the United States can not afford to take a position at variance with the rule of universal equality established in the Suez Canal convention—equality as to every stockholder and all nonstockholders, equality as to every nation whether in possession or out of possession. In the face of that declaration the United States can not afford to take any other position than upon the rule of universal equality of the Suez Canal convention, and upon the further declaration that the country owning the territory through which this canal was to be built would not and ought not to give any special advantage or

preference to the United States as compared with all the other nations of the earth. In view of that report the Senate rejected the amendment which was offered by Senator Bard, of California, providing for preference to the coastwise trade of the United States. This is the amendment which was proposed:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

I say, the Senate rejected that amendment upon this report, which declared the rule of universal equality without any preference or discrimination in favor of the United States as being the meaning of the treaty and the necessary meaning of the treaty.

There was still more before the Senate, there was still more before the country to fix the meaning of the treaty. I have read the representations that were made, the solemn declarations made by the United States to Great Britain establishing the rule of absolute equality without discrimination in favor of the United States or its citizens to induce Great Britain to enter into the Clayton-Bulwer treaty.

Now, let me read the declaration made to Great Britain to induce her to modify the Clayton-Bulwer treaty and give up her right to joint control of the canal and put in our hands the sole power to construct it or patronize it or control it.

Mr. Blaine said in his instructions to Mr. Lowell on June 24, 1881, directing Mr. Lowell to propose to Great Britain the modification of the Clayton-Bulwer treaty.

I read his words:

The United States recognizes a proper guarantee of neutrality as essential to the construction and successful operation of any highway across the Isthmus of Panama, and in the last generation every step was taken by this Government that is deemed requisite in the premises. The necessity was foreseen and abundantly provided for long in advance of any possible call for the actual exercise of power. Nor, in time of peace, does the United States seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway, under the exclusive control of an American corporation. The extent of the privileges of American citizens and ships is measurable under the treaty of 1846 by those of Colombian citizens and ships. It could be our earnest desire and expectation to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.

Secretary Cass had already said to Great Britain in 1857:

The United States, as I have before had occasion to assure your Lordship, demand no exclusive privileges in these passages, but will always exert their influence to secure their free and unrestricted benefits, both in peace and war, to the commerce of the world.

Mr. President, it was upon that declaration, upon that self-denying declaration, upon that solemn assurance, that the United States sought not and would not have any preference for its own citizens over the subjects and citizens of other countries that Great Britain abandoned her rights under the Clayton-Bulwer treaty and entered into the Hay-Pauncefote treaty, with the clause continuing the principles of clause 8, which embodied these same declarations, and the clause establishing the rule of equality taken from the Suez Canal convention. We are not at liberty to give any other construction to the Hay-Pauncefote treaty than the construction which is consistent with that declaration.

Mr. President, these declarations, made specifically and directly to secure the making of these treaties, do not stand alone. For a longer period than the oldest Senator has lived the United States has been from time to time making open and public declarations of her disinterestedness, her altruism, her purposes for the benefit of mankind, her freedom from desire or willingness to secure special and peculiar advantage in respect of transit across the Isthmus. In 1826 Mr. Clay, then Secretary of State in the Cabinet of John Quincy Adams, said, in his instructions to the delegates to the Panama Congress of that year:

If a canal across the Isthmus be opened "so as to admit of the passage of sea vessels from ocean to ocean, the benefit of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation for reasonable tolls."

Mr. Cleveland, in his annual message of 1885, said:

The lapse of years has abundantly confirmed the wisdom and foresight of those earlier administrations which, long before the conditions of maritime intercourse were changed and enlarged by the progress of the age, proclaimed the vital need of interoceanic transit across the American Isthmus and consecrated it in advance to the common use of mankind by their positive declarations and through the formal obligations of treaties. Toward such realization the efforts of my administration will be applied, ever bearing in mind the principles on which it must rest and which were declared in no uncertain tones by Mr. Cass, who, while Secretary of State in 1858, announced that "What the United States want in Central America next to the happiness of its people is the security and neutrality of the interoceanic routes which lead through it."

By public declarations, by the solemn asseverations of our treaties with Colombia in 1846, with Great Britain in 1850, our

treaties with Nicaragua, our treaty with Great Britain in 1901, our treaty with Panama in 1903, we have presented to the world the most unequivocal guaranty of disinterested action for the common benefit of mankind and not for our selfish advantage.

In the message which was sent to Congress by President Roosevelt on the 4th of January, 1904, explaining the course of this Government regarding the revolution in Panama and the making of the treaty by which we acquired all the title that we have upon the Isthmus, President Roosevelt said:

If ever a Government could be said to have received a mandate from civilization to effect an object the accomplishment of which was demanded in the interest of mankind, the United States holds that position with regard to the interoceanic canal.

Mr. President, there has been much discussion for many years among authorities upon international law as to whether artificial canals for the convenience of commerce did not partake of the character of natural passageways to such a degree that, by the rules of international law, equality must be observed in the treatment of mankind by the nation which has possession and control. Many very high authorities have asserted that that rule applies to the Panama Canal even without a treaty. We base our title upon the right of mankind in the Isthmus, treaty or no treaty. We have long asserted, beginning with Secretary Cass, that the nations of Central America had no right to debar the world from its right of passage across the Isthmus. Upon that view, in the words which I have quoted from President Roosevelt's message to Congress, we base the justice of our entire action upon the Isthmus which resulted in our having the Canal Zone. We could not have taken it for our selfish interest; we could not have taken it for the purpose of securing an advantage to the people of the United States over the other peoples of the world; it was only because civilization had its rights to passage across the Isthmus and because we made ourselves the mandatory of civilization to assert those rights that we are entitled to be there at all. On the principles which underlie our action and upon all the declarations that we have made for more than half a century, as well as upon the express and positive stipulations of our treaties, we are forbidden to say we have taken the custody of the Canal Zone to give ourselves any right of preference over the other civilized nations of the world beyond those rights which go to the owner of a canal to have the tolls that are charged for passage.

Well, Mr. President, asserting that we were acting for the common benefit of mankind, willing to accept no preferential right of our own, just as we asserted it to secure the Clayton-Bulwer treaty, just as we asserted it to secure the Hay-Pauncefote treaty, when we had recognized the Republic of Panama, we made a treaty with her on the 18th of November, 1903. I ask your attention now to the provisions of that treaty. In that treaty both Panama and the United States recognize the fact that the United States was acting, not for its own special and selfish interest, but in the interest of mankind.

The suggestion has been made that we are relieved from the obligations of our treaties with Great Britain because the Canal Zone is our territory. It is said that, because it has become ours, we are entitled to build the canal on our own territory and do what we please with it. Nothing can be further from the fact. It is not our territory, except in trust. Article 2 of the treaty with Panama provides:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal—

And for no other purpose—

of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed.

The Republic of Panama further grants to the United States in perpetuity the use, occupation, and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the said enterprise.

Article 3 provides:

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article 2 of this agreement—

From which I have just read—

and within the limits of all auxiliary lands and waters mentioned and described in said article 2 which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Article 5 provides:

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance, and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

I now read from article 18:

The canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by section 1 of article 3 of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

So, Mr. President, far from our being relieved of the obligations of the treaty with Great Britain by reason of the title that we have obtained to the Canal Zone, we have taken that title impressed with a solemn trust. We have taken it for no purpose except the construction and maintenance of a canal in accordance with all the stipulations of our treaty with Great Britain. We can not be false to those stipulations without adding to the breach of contract a breach of the trust which we have assumed, according to our own declarations, for the benefit of mankind as the mandatory of civilization.

In anticipation of the plainly-to-be-foreseen contingency of our having to acquire some kind of title in order to construct the canal, the Hay-Pauncefote treaty provided expressly in article 4:

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

So you will see that the treaty with Great Britain expressly provides that its obligations shall continue, no matter what title we get to the Canal Zone; and the treaty by which we get the title expressly impresses upon it as a trust the obligations of the treaty with Great Britain. How idle it is to say that because the Canal Zone is ours we can do with it what we please.

There is another suggestion made regarding the obligations of this treaty, and that is that matters relating to the coasting trade are matters of special domestic concern, and that nobody else has any right to say anything about them. We did not think so when we were dealing with the Canadian canals. But that may not be conclusive as to rights under this treaty. But examine it for a moment.

It is rather poverty of language than a genius for definition which leads us to call a voyage from New York to San Francisco, passing along countries thousands of miles away from our territory, "coasting trade," or to call a voyage from New York to Manila, on the other side of the world, "coasting trade." When we use the term "coasting trade" what we really mean is that under our navigation laws a voyage which begins and ends at an American port has certain privileges and immunities and rights, and it is necessarily in that sense that the term is used in this statute. It must be construed in accordance with our statutes.

Sir, I do not for a moment dispute that ordinary coasting trade is a special kind of trade that is entitled to be treated differently from trade to or from distant foreign points. It is ordinarily neighborhood trade, from port to port, by which the people of a country carry on their intercommunication, often by small vessels, poor vessels, carrying cargoes of slight value. It would be quite impracticable to impose upon trade of that kind the same kind of burdens which great ocean-going steamers, trading to the farthest parts of the earth, can well bear. We make that distinction. Indeed, Great Britain herself makes it, although Great Britain admits all the world to her coasting trade. But it is by quite a different basis of classification—that is, the statutory basis—that we call a voyage from the eastern coast of the United States to the Orient a coasting voyage, because it begins and ends in an American port.

This is a special, peculiar kind of trade which passes through the Panama Canal. You may call it "coasting trade," but it is unlike any other coasting trade. It is special and peculiar to itself.

Grant that we are entitled to fix a different rate of tolls for that class of trade from that which would be fixed for other classes of trade. Ah, yes; but Great Britain has her coasting trade through the canal under the same definition, and Mexico has her coasting trade, and Germany has her coasting trade, and Colombia has her coasting trade, in the same sense that we have. You are not at liberty to discriminate in fixing tolls between a voyage from Portland, Me., to Portland, Oreg., by an American ship, and a voyage from Halifax to Victoria in a British ship, or a voyage from Vera Cruz to Acapulco in a Mexican ship, because when you do so you discriminate, not between coasting trade and other trade, but between American ships and British ships, Mexican ships, or Colombian ships. That is a violation of the rule of equality which we have solemnly adopted, and asserted and reasserted, and to which we are bound by every consideration of honor and good faith. Whatever this treaty means, it means for that kind of trade as well as for any other kind of trade.

The suggestion has been made, also, that we should not consider that the provision in this treaty about equality as to tolls really means what it says, because it is not to be supposed that

the United States would give up the right to defend itself, to protect its own territory, to land its own troops, and to send through the canal as it pleases its own ships of war. That is disposed of by the considerations which were presented to the Senate in the Davis report, to which I have already referred, in regard to the Suez convention.

The Suez convention, from which these rules of the Hay-Pauncefote treaty were taken almost—though not quite—textually, contained other provisions which reserved to Turkey and to Egypt, as sovereigns of the territory through which the canal passed—Egypt as the sovereign and Turkey as the suzerain over Egypt—all of the rights that pertained to sovereigns for the protection of their own territory. As when the Hay-Pauncefote treaty was made neither party to the treaty had any title to the region which would be traversed by the canal, no such clauses could be introduced. But, as was pointed out, the rules which were taken from the Suez Canal for the control of the canal management would necessarily be subject to these rights of sovereignty which were still to be secured from the countries owning the territory. That is recognized by the British Government in the note which has been sent to us and has been laid before the Senate, or is in the possession of the Senate, from the British foreign office.

In Sir Edward Grey's note of November 14, 1912, he says what I am about to read. This is an explicit disclaimer of any contention that the provisions of the Hay-Pauncefote treaty exclude us from the same rights of protection of territory which Nicaragua or Colombia or Panama would have had as sovereigns, and which we succeed to, pro tanto, by virtue of the Panama Canal treaty.

Sir Edward Grey says:

I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for re-creating its warships or landing troops.

The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

I read this not as an argument but because it is a formal, official disclaimer which is binding.

Sir Edward Grey proceeds:

The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal Convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal Convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.

Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

Mr. President, Great Britain has asserted the construction of the Hay-Pauncefote treaty of 1901, the arguments for which I have been stating to the Senate. I realize, sir, that I may be wrong. I have often been wrong. I realize that the gentlemen who have taken a different view regarding the meaning of this treaty may be right. I do not think so. But their ability and fairness of mind would make it idle for me not to entertain the possibility that they are right and I am wrong. Yet, Mr. President, the question whether they are right and I am wrong depends upon the interpretation of the treaty. It depends upon the interpretation of the treaty in the light of all the declarations that have been made by the parties to it, in the light of the nature of the subject matter with which it deals.

Gentlemen say the question of imposing tolls or not imposing tolls upon our coastwise commerce is a matter of our concern. Ah! we have made a treaty about it. If the interpretation of the treaty is as England claims, then it is not a matter of our concern; it is a matter of treaty rights and duties. But, sir, it is not a question as to our rights to remit tolls to our commerce. It is a question whether we can impose tolls upon British commerce when we have remitted them from our own. That is the question. Nobody disputes our right to allow our own ships to go through the canal without paying tolls. What is disputed is our right to charge tolls against other ships when we do not charge them against our own. That is, pure and simple, a question of international right and duty, and depends upon the interpretation of the treaty.

Sir, we have another treaty, made between the United States and Great Britain on the 4th of April, 1908, in which the two nations have agreed as follows:

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th of July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting States, and do not concern the interests of third parties.

Of course, the question of the rate of tolls on the Panama Canal does not affect any nation's vital interests. It does not affect the independence or the honor of either of these contracting States. We have a difference relating to the interpretation of this treaty, and that is all there is to it. We are bound, by this treaty of arbitration, not to stand with arrogant assertion upon our own Government's opinion as to the interpretation of the treaty, not to require that Great Britain shall suffer what she deems injustice by violation of the treaty, or else go to war. We are bound to say, "We keep the faith of our treaty of arbitration, and we will submit the question as to what this treaty means to an impartial tribunal of arbitration."

Mr. President, if we stand in the position of arrogant refusal to submit the questions arising upon the interpretation of this treaty to arbitration, we shall not only violate our solemn obligation, but we shall be false to all the principles that we have asserted to the world, and that we have urged upon mankind. We have been the apostle of arbitration. We have been urging it upon the other civilized nations. Presidents, Secretaries of State, ambassadors, and ministers—aye, Congresses, the Senate and the House, all branches of our Government have committed the United States to the principle of arbitration irrevocably, unequivocally, and we have urged it in season and out of season on the rest of mankind.

Sir, I can not detain the Senate by more than beginning upon the expressions that have come from our Government upon this subject, but I will ask your indulgence while I call your attention to a few selected from the others.

On the 9th of June, 1874, the Senate Committee on Foreign Relations reported and the Senate adopted this resolution:

Resolved, That the United States having at heart the cause of peace everywhere, and hoping to help its permanent establishment between nations, hereby recommend the adoption of arbitration as a great and practical method for the determination of international difference, to be maintained sincerely and in good faith, so that war may cease to be regarded as a proper form of trial between nations.

On the 17th of June, 1874, the Committee on Foreign Affairs of the House adopted this resolution:

Whereas war is at all times destructive of the material interests of a people, demoralizing in its tendencies, and at variance with an enlightened public sentiment; and whereas differences between nations should in the interests of humanity and fraternity be adjusted, if possible, by international arbitration: Therefore,

Resolved, That the people of the United States being devoted to the policy of peace with all mankind, enjoining its blessings and hoping for its permanence and its universal adoption, hereby through their representatives in Congress recommend such arbitration as a rational substitute for war; and they further recommend to the treaty-making power of the Government to provide, if practicable, that hereafter in treaties made between the United States and foreign powers war shall not be declared by either of the contracting parties against the other until efforts shall have been made to adjust all alleged cause of difference by impartial arbitration.

On the same 17th of June, 1874, the Senate adopted this resolution:

Resolved, etc., That the President of the United States is hereby authorized and requested to negotiate with all civilized powers who may be willing to enter into such negotiations for the establishment of an international system whereby matters in dispute between different Governments agreeing thereto may be adjusted by arbitration, and, if possible, without recourse to war.

On the 14th of June, 1888, and again on the 14th of February, 1890, the Senate and the House adopted a concurrent resolution in the words which I now read:

Resolved by the Senate (the House of Representatives concurring), That the President be, and is hereby, requested to invite, from time to time, as fit occasions may arise, negotiations with any Government with which the United States has, or may have, diplomatic relations, to the end that any differences or disputes arising between the two Governments which can not be adjusted by diplomatic agency may be referred to arbitration and be peaceably adjusted by such means.

This was concurred in by the House on the 3d of April, 1890.

Mr. President, in pursuance of those declarations by both Houses of Congress the Presidents and the Secretaries of State and the diplomatic agents of the United States, doing their bounden duty, have been urging arbitration upon the people of the world. Our representatives in The Hague conference of 1899, and in The Hague conference of 1907, and in the Pan American conference in Washington, and in the Pan American conference in Mexico, and in the Pan American conference in Rio de Janeiro were instructed to urge and did urge and pledge

the United States in the most unequivocal and urgent terms to support the principle of arbitration upon all questions capable of being submitted to a tribunal for a decision.

Under those instructions Mr. Hay addressed the people of the entire civilized world with the request to come into treaties of arbitration with the United States. Here was his letter. After quoting from the resolutions and from expressions by the President he said:

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor to the arrangement concluded between France and Great Britain on October 14, 1903.

That was the origin of this treaty. The treaties made by Mr. Hay were not satisfactory to the Senate because of the question about the participation of the Senate in the make-up of the special agreement of submission. Mr. Hay's successor modified that on conference with the Committee on Foreign Relations of the Senate, and secured the assent of the other countries of the world to the treaty with that modification. We have made 25 of these treaties of arbitration, covering the greater part of the world, under the direction of the Senate of the United States and the House of Representatives of the United States and in accordance with the traditional policy of the United States, holding up to the world the principle of peaceful arbitration.

One of these treaties is here, and under it Great Britain is demanding that the question as to what the true interpretation of our treaty about the canal is shall be submitted to decision and not be made the subject of war or of submission to what she deems injustice to avoid war.

In response to the last resolution which I have read, the concurrent resolution passed by the Senate and the House requesting the President to enter into the negotiations which resulted in these treaties of arbitration, the British House of Commons passed a resolution accepting the overture. On the 16th of July, 1893, the House of Commons adopted this resolution:

Resolved, That this house has learnt with satisfaction that both Houses of the United States Congress have, by resolution, requested the President to invite from time to time, as fit occasions may arise, negotiations with any government with which the United States have or may have diplomatic relations, to the end that any differences or disputes arising between the two governments which can not be adjusted by diplomatic agency may be referred to arbitration and peaceably adjusted by such means, and that this house, cordially sympathizing with the purpose in view, expresses the hope that Her Majesty's Government will lend their ready cooperation to the Government of the United States upon the basis of the foregoing resolution.

Her Majesty's Government did, and thence came this treaty. Mr. President, what revolting hypocrisy we convict ourselves of, if after all this, the first time there comes up a question in which we have an interest, the first time there comes up a question of difference about the meaning of a treaty as to which we fear we may be beaten in an arbitration, we refuse to keep our agreement? Where will be our self-respect if we do that? Where will be that respect to which a great nation is entitled from the other nations of the earth?

I have read from what Congress has said.

Let me read something from President Grant's annual message of December 4, 1871. He is commenting upon the arbitration provisions of the treaty of 1871, in which Great Britain submitted to arbitration our claims against her, known as the Alabama claims, in which Great Britain submitted those claims where she stood possibly to lose but not possibly to gain anything, and submitted them against the most earnest and violent protest of many of her own citizens. Gen. Grant said:

The year has been an eventful one in witnessing two great nations speaking one language and having one lineage, settling by peaceful arbitration disputes of long standing and liable at any time to bring those nations into costly and bloody conflict. An example has been set which, if successful in its final issue, may be followed by other civilized nations and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and by broadside.

Under the authority of these resolutions our delegates in the first Pan American conference at Washington secured the adoption of this resolution April 18, 1890:

ARTICLE 1. The Republics of North, Central, and South America hereby adopt arbitration as a principle of American international law for the settlement of the differences, disputes, or controversies that may arise between two or more of them.

And this:

The International American Conference resolves that this conference, having recommended arbitration for the settlement of disputes among the Republics of America, begs leave to express the wish that controversies between them and the nations of Europe may be settled in the same friendly manner.

It is further recommended that the Government of each nation herein represented communicate this wish to all friendly powers.

Upon that Mr. Blaine, that most vigorous and virile American, in his address as the presiding officer of that first Pan American conference in Washington said:

If, in this closing hour, the conference had but one deed to celebrate we should dare call the world's attention to the deliberate, confident, solemn dedication of two great continents to peace and to the prosperity which has peace for its foundation. We hold up this new Magna Charta, which abolishes war and substitutes arbitration between the American Republics, as the first and great fruit of the International American Conference. That noblest of Americans, the aged poet and philanthropist, Whittier, is the first to send his salutation and his benediction, declaring, "If in the spirit of peace the American conference agrees upon a rule of arbitration which shall make war in this hemisphere well-nigh impossible, its sessions will prove one of the most important events in the history of the world."

President Arthur in his annual message of December 4, 1882, said, in discussing the proposition for a Pan American conference:

I am unwilling to dismiss this subject without assuring you of my support of any measure the wisdom of Congress may devise for the promotion of peace on this continent and throughout the world, and I trust the time is nigh when, with the universal assent of civilized peoples, all international differences shall be determined without resort to arms by the benignant processes of arbitration.

President Harrison in his message of December 3, 1889, said concerning the Pan American conference:

But while the commercial results which it is hoped will follow this conference are worthy of pursuit and of the great interests they have excited, it is believed that the crowning benefit will be found in the better securities which may be devised for the maintenance of peace among all American nations and the settlement of all contentions by methods that a Christian civilization can approve.

President Cleveland, in his message of December 4, 1893, said, concerning the resolution of the British Parliament of July 16, 1893, which I have already read, and commenting on the concurrent resolution of February 14 and April 18, 1890:

It affords me signal pleasure to lay this parliamentary resolution before the Congress and to express my sincere gratification that the sentiment of two great kindred nations is thus authoritatively manifested in favor of the rational and peaceable settlement of international quarrels by honorable resort to arbitration.

President McKinley, in his message of December 6, 1897, said:

International arbitration can not be omitted from the list of subjects claiming our consideration. Events have only served to strengthen the general views on this question expressed in my inaugural address. The best sentiment of the civilized world is moving toward the settlement of differences between nations without resorting to the horrors of war. Treaties embodying these humane principles on broad lines without in any way imperiling our interests or our honor shall have my constant encouragement.

President Roosevelt, in his message of December 3, 1905, said:

I earnestly hope that the conference—

The second Hague conference—

may be able to devise some way to make arbitration between nations the customary way of settling international disputes in all save a few classes of cases, which should themselves be sharply defined and rigidly limited as the present governmental and social development of the world will permit. If possible, there should be a general arbitration treaty negotiated among all nations represented at the conference.

Oh, Mr. President, are we Pharisees? Have we been insincere and false? Have we been pretending in all these long years of resolution and declaration and proposal and urgency for arbitration? Are we ready now to admit that our country, that its Congresses and its Presidents, have all been guilty of false pretense, of humbug, of talking to the galleries, of fine words to secure applause, and that the instant we have an interest we are ready to falsify every declaration, every promise, and every principle? But we must do that if we arrogantly insist that we alone will determine upon the interpretation of this treaty and will refuse to abide by the agreement of our treaty of arbitration.

Mr. President, what is all this for? Is the game worth the candle? Is it worth while to put ourselves in a position and to remain in a position to maintain which we may be driven to repudiate our principles, our professions, and our agreements for the purpose of conferring a money benefit—not very great, not very important, but a money benefit—at the expense of the Treasury of the United States, upon the most highly and absolutely protected special industry in the United States? Is it worth while? We refuse to help our foreign shipping, which is in competition with the lower wages and the lower standard of living of foreign countries, and we are proposing to do this for a part of our coastwise shipping which has now by law the absolute protection of a statutory monopoly and which needs no help.

Mr. President, there is but one alternative consistent with self-respect. We must arbitrate the interpretation of this treaty or we must retire from the position we have taken.

O Senators, consider for a moment what it is that we are doing. We all love our country; we are all proud of its history; we are all full of hope and courage for its future; we love its good name; we desire for it that power among the nations

of the earth which will enable it to accomplish still greater things for civilization than it has accomplished in its noble past. Shall we make ourselves in the minds of the world like unto the man who in his own community is marked as astute and cunning to get out of his obligations? Shall we make ourselves like unto the man who is known to be false to his agreements; false to his pledged word? Shall we have it understood the whole world over that "you must look out for the United States or she will get the advantage of you"; that we are clever and cunning to get the better of the other party to an agreement, and that at the end—

Mr. BRANDEGEE. "Slippery" would be a better word.

Mr. ROOT. Yes; I thank the Senator for the suggestion—"slippery." Shall we in our generation add to those claims to honor and respect that our fathers have established for our country good cause that we shall be considered slippery?

It is worth while, Mr. President, to be a citizen of a great country, but size alone is not enough to make a country great. A country must be great in its ideals; it must be great-hearted; it must be noble; it must despise and reject all smallness and meanness; it must be faithful to its word; it must keep the faith of treaties; it must be faithful to its mission of civilization in order that it shall be truly great. It is because we believe that of our country that we are proud, ay, that the alien with the first step of his foot upon our soil is proud to be a part of this great democracy.

Let us put aside the idea of small, petty advantage; let us treat this situation and these obligations in our relation to this canal in that large way which befits a great nation.

Mr. President, how sad it would be if we were to dim the splendor of that great achievement by drawing across it the mark of petty selfishness; if we were to diminish and reduce for generations to come the power and influence of this free Republic for the uplifting and the progress of mankind by destroying the respect of mankind for us! How sad it would be if you and I, Senators, were to make ourselves responsible for destroying that bright and inspiring ideal which has enabled free America to lead the world in progress toward liberty and justice!

During the delivery of Mr. Root's speech,

The PRESIDING OFFICER (Mr. LIPPITT in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (S. J. Res. 78) proposing an amendment to the Constitution of the United States.

Mr. CUMMINS. I ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the unfinished business will be temporarily laid aside. The Senator from New York will proceed.

After the conclusion of Mr. Root's speech,

Mr. NEWLANDS. Mr. President, I give notice that tomorrow at the close of the morning business, if the convenience of the Senate will permit, I shall speak upon the question discussed to-day by the Senator from New York [Mr. Root]—the Panama Canal tolls. Assuming even more than the Senator from New York has contended for, namely, that the United States holds the canal in trust for civilization; that the canal is to be regarded as a great international public utility through which the Government of the United States as its administrator is bound to render the same service to all for the same price, I shall endeavor to show that no unjust burthen has been placed upon foreign nations, but that, on the contrary, the United States is bearing and will continue for many years to bear an enormous burthen, the larger portion of which, in justice and in right, it could impose upon the shipping of foreign nations, whose tonnage will for many years constitute at least nine-tenths of the total tonnage of the canal. I refer to the interest charge upon its enormous investment of \$400,000,000 in the Panama Canal, which for many years it will be unable to collect.

I shall endeavor to show that there is no necessity for arbitration upon this question; that all that is necessary can be accomplished by adding a few lines to the statute which we have already enacted, providing that the charges from which our domestic ships shall be freed shall not be imposed as an additional charge upon foreign or international shipping, but shall be credited on our interest charge against the Panama investment; that those few lines will demonstrate to the world that the United States intends to administer the canal with justice to all nations and without imposing an unfair burthen upon any, and at the same time to maintain its traditional domestic policy of an untrammelled and unburthened traffic upon its domestic waterways. I shall contend that the Panama Canal is not only an international public utility, but a do-

mestic waterway, and as such, so far as our domestic policies are concerned, is to be administered like any other waterway of the country upon which public moneys have been expended—as a free and untrammelled channel of transportation, trade, and commerce between the various sections of our country.

Mr. BRANDEGEE. Mr. President, I assume the Senator from Nevada means his remarks to follow those for which notice already stands on the calendar after the routine morning business to-morrow.

Mr. NEWLANDS. What notice is that?

Mr. BRANDEGEE. My colleague [Mr. McLEAN] has given notice that immediately upon the conclusion of the routine morning business to-morrow he will ask the Senate to take up another matter.

Mr. NEWLANDS. Of course that will have precedence.

OLD NEWBURY HISTORICAL SOCIETY, MASSACHUSETTS.

The PRESIDENT pro tempore laid before the Senate the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., which was read the first time by its title.

Mr. LODGE. The Committee on Finance has favorably reported a joint resolution identical with that joint resolution, and I now ask for the present consideration of the House joint resolution. It is only 5 lines, and will not take long.

Mr. CULBERSON. Let the title of the joint resolution be again read.

The PRESIDENT pro tempore. The joint resolution will be read in full before the request for its consideration is put.

The Secretary read the joint resolution (H. J. Res. 369) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury is hereby authorized to give to the Old Newbury Historical Society, of Newburyport, Mass., any or all documents in the customhouse building at Newburyport, Mass., which are of no further value to the United States Government.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. LODGE. I move that the joint resolution (S. J. Res. 154) authorizing the Secretary of the Treasury to give certain old Government documents to the Old Newbury Historical Society, of Newburyport, Mass., reported by me this morning from the Committee on Finance, be postponed indefinitely.

The motion was agreed to.

M'CLELLAN PARK.

Mr. MARTINE of New Jersey. I ask unanimous consent for the present consideration of the bill (S. 2845) to acquire certain land in Washington Heights for a public park to be known as McClellan Park.

The PRESIDENT pro tempore. The bill has heretofore been read. Is there objection to its present consideration?

Mr. BRISTOW. Mr. President, I objected to that bill the other day. I did so very largely because I believe when we are establishing public parks they ought to be established where they are most needed. The site of the proposed park is within a couple of blocks of the Zoological Park, and I thought if we were expending money for park purposes we ought to spend it in the congested part of the city where there are no parks.

Mr. MARTINE of New Jersey. Mr. President, this matter was before the Committee on Public Buildings and Grounds, and it was there referred to a special committee. The committee investigated the question and were thoroughly convinced that the situation as it is now was certainly not in existence at the time the original idea and plan of public parks was inaugurated. This plat comprises about 2 acres. It is surrounded with streets and in itself to-day is a park so far as requiring the expenditure of a dollar to put it in shape is concerned. There is a very handsome house on the plat that might be used for a public rest. This plat is surrounded with apartment buildings from 7 to 12 stories high and is about 1 mile from the other end of Rock Creek Park. It was the opinion of the committee that the public need and demand at that point warranted the purchase of this plat. I do not at the moment recall the exact figure involved, but it is something over \$100,000.

The PRESIDENT pro tempore. If the Chair may be allowed to make the suggestion, the amount is \$180,000.

Mr. MARTINE of New Jersey. \$180,000.

Mr. NEWLANDS. I should like to ask if any objection has been interposed to the consideration of this bill? If not, I will have to object.

Mr. WILLIAMS. I should like to propound a parliamentary inquiry. Are we sounding the calendar under the unanimous-consent rule?

The PRESIDENT pro tempore. The Senator from New Jersey has asked unanimous consent for the present consideration of the bill named by him.

Mr. WILLIAMS. Yes; but are we sounding the calendar?

The PRESIDENT pro tempore. No; not at all.

Mr. WILLIAMS. This bill comes up irregularly, then?

The PRESIDENT pro tempore. It does.

Mr. WILLIAMS. Very well.

The PRESIDENT pro tempore. Is there objection to the consideration of the bill?

Mr. NEWLANDS. I object to the present consideration of the bill, as I desire to bring up the motion I made to reconsider the votes by which the omnibus claims bill was ordered to a third reading, read the third time, and passed.

The PRESIDENT pro tempore. Objection is made.

OMNIBUS CLAIMS BILL.

Mr. NEWLANDS obtained the floor.

Mr. CRAWFORD. Mr. President—

The PRESIDENT pro tempore. The Senator from Nevada has been recognized.

Mr. CRAWFORD. I ask the Senator to yield to me.

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from South Dakota?

Mr. NEWLANDS. Yes.

Mr. CRAWFORD. Mr. President, the omnibus claims bill passed the Senate the other day while the Senator from Nevada was absent. He had given notice of his intention to offer an amendment, but on account of his absence he did not have that opportunity, so that he gave notice of a motion to reconsider. The bill, if the votes are reconsidered, will be before the Senate for that purpose only, and not with any idea of going into a general discussion or of submitting amendments.

Mr. NEWLANDS. Mr. President, I was absent when the omnibus claims bill was finally disposed of the other day. At that time I had pending an amendment providing for the payment of some 80 claims for extra pay of mechanics and laborers on public buildings in some 25 different States, including Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin—claims aggregating from \$500 to \$7,000 and totaling about \$92,000.

These claims are asserted under the findings of the Court of Claims, which acted upon a bill referred to that court by Congress for consideration, providing for the payment of claims for extra pay. The claims were founded upon the act of August 1, 1892, known as the eight-hour law. Prior to that time the eight-hour law had existed for some period, but it was declared by the courts to be not mandatory, and the result was that a new law was passed on August 1, 1892, from which I quote:

SECTION 1. That the service and employment of all laborers and mechanics who are now or may hereafter be employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia, is hereby limited and restricted to eight hours in any one calendar day, and it shall be unlawful for any officer of the United States Government or of the District of Columbia, or any such contractor or subcontractor whose duty it shall be to employ, direct, or control the services of such laborers or mechanics, to require or permit any such laborer or mechanic to work more than eight hours in any calendar day, except in case of extraordinary emergency.

It will be observed that not only was an eight-hour day fixed, but it was made unlawful for any officer of the United States Government to permit work in excess of eight hours. The record shows that with reference to a certain class of laborers, namely, engineers, firemen, mechanics, and laborers, the Treasury Department fixed the compensation by the year, and presumably they fixed that compensation with reference to the requirements of the law as to an eight-hour day. Notwithstanding that fact, all of the men whose claims are now presented were compelled to work in excess of eight hours. That fact is found by the Court of Claims; the fact of compensation is found by the Court of Claims; the number of extra hours is found by the Court of Claims; and the compensation to which these men are entitled for the extra work is also ascertained. The Court of Claims, in presenting these findings of fact, found in reference to all of them practically what they found regard-

ing the claim of one Glanzmann, a resident of the State of Nevada, and from which I will read a quotation:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the Committee on Claims insists that, in fixing this compensation, they took into consideration the number of hours in excess of the legal requirement which these laborers might be compelled to labor. I take exception to that statement. The finding of the Court of Claims is simply that the compensation was fixed without regard to the number of hours; and the presumption is that in fixing the compensation they fixed it with a view to the requirements of the law, that no man should be required to work more than eight hours a day. This is proved by the fact that numerous laborers of the same class—common laborers, firemen, engineers, and so forth—were employed for differing hours. Some of them were only compelled to work according to the legal requirement of eight hours, and yet they received the same pay for their class as did the men who were called by their superior officers to work for 12 hours. It is clear, therefore, that the men who fixed this compensation did not take into consideration any extra time, but simply fixed the compensation according to the character of the employment, assuming that the men would only be called upon to work the legal number of hours, for we can not assume that these officials deliberately proposed to break the law, when that very law made it unlawful for them to permit any employment beyond the eight hours.

This contention is verified by the affidavits presented by Mr. W. W. Ludlow and Mr. Fred Casady, who, as I understand, were Treasury officials, charged with the duty of determining the compensation to be paid to these various classes of laborers. These affidavits were made only a few weeks ago, and they were made in view of the statement presented by the chairman of the Committee on Claims that in fixing compensation they had taken into consideration the extra number of hours that the men would be called upon to serve. These men all denied this, and their affidavits are presented in Senate Document No. 985 of the present session.

I read from the statement of W. W. Ludlow, dated December 17, 1912, and sworn to before a notary public:

W. W. Ludlow on oath deposes and says that he is the W. W. Ludlow who testified—

I presume in the Court of Claims—

in connection with the employment and fixing of the compensation of certain engineers, firemen, and laborers in the custodian service; that when he testified that the salary of such employees was fixed "at what the work was worth" without regard to the number of hours they might be required to labor, he meant that he fixed such salary at what the character of the employment was worth; for example, engineers at a certain compensation, firemen at a certain compensation, laborers at a certain compensation. Deponent further deposes and says that in fixing said salary he did not know how many hours the employee might be required to work, and only fixed the salary with a view to the character of the work which the employee would be called upon to perform.

Depositions are made by Mr. Fred Casady and Mr. Robert Tobin to the same effect; and the truth of their statements is proved by the fact that the men who work only 8 hours a day in these various classes of employment receive the same annual compensation as the men who work 12 hours a day.

Mr. President, I do not wish to take the time of the Senate in the discussion of this matter. It is perfectly clear that the intention of Congress from the start has been to enforce the eight-hour law regarding laborers employed on the public buildings, and that after the courts had declared that the provision of law covering that question was not mandatory Congress changed the law and made it mandatory, and made it unlawful for any official of the Government to exact work beyond the eight hours. We have the fact, ascertained by the Court of Claims, that these men did work beyond the eight hours, and the fact that, judged by the compensation for the eight hours, the extra time was worth so much, aggregating in all \$92,000.

I wish to say that there is no danger of a large amount of claims being precipitated upon Congress under this law, for of late years the officials of the departments have been careful to enforce the law as to an eight-hour day, and where they have called upon employees to give service beyond the eight hours the various departments, by rules and regulations, have provided for compensation for the extra time. So we find, as a matter of fact, that, with the exception of these claims which arose early under the law, and which were presented to the

Court of Claims, it has now become the settled custom and practice of the departments to pay these amounts for extra time without contest. All this is shown in Senate Document No. 985.

In this statement it appears that Congress has already paid claims of this nature. In the House of Representatives a claim of this nature was pending some time in 1899. As I have already stated, it is not found that many claims of this nature have been presented to Congress since the act of August 1, 1892, owing to the fact that the requirements of that law have been very generally complied with by Government officers, and therefore the instances of claims prosecuted in Congress are few. Most of them are present here, but at least one claim has been settled by an act of Congress.

Joint resolution 307 was presented at the third session of the Fifty-fifth Congress. When this measure was called up in the House of Representatives on February 11, 1899, the following debate ensued:

Mr. DOCKERY. I thought there was an eight-hour law upon the statute books preventing the working of laborers, mechanics, and artisans over eight hours. I shall not object to this bill, because laborers should be paid for any excess of time over eight hours.

Mr. HOPKINS. Well, Mr. Speaker, how are we to construe the remarks of the gentleman from Missouri? Is he in favor or against the joint resolution?

Mr. DOCKERY. "The gentleman from Missouri" stated very clearly that he was in favor of paying any laborer for any excess of time he may have worked over eight hours. As I understand the joint resolution, it proposes to accomplish that result. My query, however, was how they could have been worked over eight hours under existing law.

Mr. HOPKINS. This bill proposes to pay them for the excess of time and 50 per cent in addition to that allowed by law.

That was a very apt inquiry on the part of Mr. Dockery, for, as I have already shown, the law explicitly makes it unlawful for any official to exact more than eight hours' work from any laborer.

This measure thereupon passed the House and later passed the Senate without debate, becoming a law on February 25, 1899. (30 Stat. L., 1389.)

When these claims, aggregating nearly \$92,000, were turned over to the Court of Claims to ascertain the facts the contemporaneous debate shows clearly that it was the intention of Congress to see to it that this law was enforced, and that wherever it was not enforced the equitable claim of the laborer for the extra time should be paid. We find Senator CULLOM, in discussing the very resolution under which these claims were considered by the Court of Claims, on September 27, 1890, speaking as follows:

All that I have to say is that it does seem to me that this law, which has been so long upon the statute books, ought to be enforced, and if it is not enforced, certainly the men who are called upon to work more hours than a legal day's work ought to have some way for securing the pay for their extra labor.

Senator Dawes, of Massachusetts, in the same debate, said:

* * * these laborers and mechanics, with as just a claim upon the Government as the bonds of the United States * * *

Senator Stewart, of Nevada, said:

I agree with the Senator from Massachusetts that we ought to turn these accounts over to the accounting officers and settle them speedily and without delay. It is one of those obligations that the Government should execute at once, without question.

Senator Spooner, of Wisconsin, in the same debate, said:

It is my conviction, Mr. President, that in every case where one of these men was compelled by the officers of the Government as a condition of having employment and of being able to support his family to work one hour or one-half hour over the eight-hour day which Congress had declared for, and which President Grant had sought to enforce, he ought to be paid for that overtime.

Not to do so seems to me to put the Government of the United States in an attitude of allowing its executive officers to violate in essence and in spirit the law which Congress had enacted upon the ground of public policy and which public sentiment has approved, and attempting to hush from these men hours of unrequited toil.

I am perfectly willing to take the responsibility of adjudicating the question of liability, sending these men to the Court of Claims for that tribunal only to ascertain and declare how many hours in each case these men worked beyond the lawful day. I shall vote with great pleasure for the substitute which I understand the Senator from New Hampshire will offer to this bill, which is the same bill as it passed this body at a previous session. In doing so, I only vote for the payment of debts honestly due and too long left unpaid.

Representative Caruth, of Kentucky, said:

Here is a proposition embodied in this bill to allow these men who have performed labor for the Government beyond what would have been their day's labor under the law to receive just compensation for their extra work. * * * I say that if there is to be any sanctity in the statutes of the United States, if the laws we put upon the statute books are to amount to anything, then these men are entitled to the relief they seek.

Representative Gest, of New Jersey, said, referring to a resolution passed by the House of Representatives May 9, 1878, after the decision in the Martin case:

It indicates the sense of the House of Representatives on this subject; that these men should be paid for the time that they had worked above and beyond eight hours a day.

Representative Thomas M. Bayne, of Pennsylvania, said:

The Supreme Court of the United States in a case coming before it has held that the departments of the Government have the right to employ men for 8 hours and pay them for 8 hours; and when it employs men for 10 hours it has the right to pay them an additional sum for their services. That is common sense, common honesty, fair dealing; anything short of that is not.

Representative William D. Kelley, of Pennsylvania, said:

Until that statute is repealed every workingman who is forced by the Government to work 10 hours for a day's wages is defrauded of his legal rights.

The executive policy under the act of 1892 has been to pay these claims in the current administration of the departments, without forcing the claimants to go to Congress or to the courts.

In the Navy Department the regulations passed in 1893 provide:

The following rules shall be observed in estimating the pay of laborers, workmen, and mechanics for work performed in excess of eight hours per day.

Then they go on to say what the extra compensation shall be. All these matters are adjusted in the ordinary course of administration.

So far as I am concerned, Mr. President, I originally represented simply the claim of John Glanzmann, a laborer and custodian in the United States customhouse and post-office building at Carson City, Nev., whose salary as such laborer was fixed at \$720 a year, the compensation given for similar work to all men employed by the National Government under the eight-hour law. Yet he was compelled for a long period of time, as a matter of economy to the Government, to work 12 hours a day. His claim does not amount to a large sum. But I found upon pressing it that there were other claims in the same category that ought to be adjusted. So I presented an amendment covering all of these claims and aggregating \$92,000.

I do hope the chairman of the committee will not further contest these claims—certainly not upon the intangible ground upon which he stood at the last hearing of this matter.

The PRESIDENT pro tempore. Does the Senator from Nevada move to reconsider the vote whereby the bill was passed? That question has not been stated.

Mr. NEWLANDS. I had an impression that it was done this morning.

The PRESIDENT pro tempore. It has not been done.

Mr. NEWLANDS. Then I will ask that the question be put. The PRESIDENT pro tempore. The Senator from Nevada moves to reconsider the votes by which the so-called omnibus claims bill was ordered to a third reading, read the third time, and passed.

Th motion to reconsider was agreed to.

The PRESIDENT pro tempore. The bill is before the Senate.

Mr. CRAWFORD. The Senator from Nevada offers his amendment at this stage?

Mr. NEWLANDS. I do.

The PRESIDENT pro tempore. The Senator from Nevada offers an amendment, which will be read by the Secretary.

The SECRETARY. It is proposed to add to the bill the following:

CLAIMS OF LABORERS AND MECHANICS IN PUBLIC BUILDINGS FOR EXTRA TIME.

Alabama: Joseph A. Decatur, Mobile, \$2,644.50.
Arkansas: Peter Jarrett, Texarkana, \$1,462.35; Perry McCarthy, Texarkana, \$65.97.
California: John D. Cash, Stockton, \$91.31; Joseph A. Workings, Stockton, \$165.
Connecticut: William F. Burns, Hartford, \$932.25; Fred H. Collins, Hartford, \$300.65; Archie E. Galpin, Bridgeport, \$109.50; James B. Garrison, Bridgeport, \$218.81; William G. Govan, Hartford, \$1,576; Joseph M. Mohr, Hartford, \$1,088.59; Edmund R. Wadhams, Torrington, \$391.16.
Florida: Forrest Crockett, Jacksonville, \$230.06; Nelson F. English, Key West, \$124.50; John W. Graham, Jacksonville, \$168.85; Catherine Lewis, widow of Albert A. Lewis, Key West, \$735; James M. Taylor, Key West, \$2,300.50; Dennie Kelly, Key West, \$918.
Georgia: Moses Mollette, Brunswick, \$628.03.
Illinois: Lemuel Gay, Quincy, \$763.75; Silas S. Myers, Joliet, \$391.79; John O'Neill, Peoria, \$1,181.25; Emmett W. Smith, Aurora, \$2,093.58.
Indiana: Timothy C. Harrington, Lafayette, \$684.66.
Iowa: John Brown, Des Moines, \$1,427.28; Joseph O. Drennan, Des Moines, \$3,382.25; John Jordan, Des Moines, \$159.37; Edward B. Murphy, Des Moines, \$187.87; William Halloran, Des Moines, \$1,218.
Kansas: William M. Terrill, Topeka, \$609.16.
Maine: David B. Hannegan, Portland, \$1,405; James E. Rogers, Bangor, \$1,165.83; Llewellyn K. Webber, Bangor, \$1,862.91.
Massachusetts: Wilson R. Scribner, Lynn, \$1,909.45.
Michigan: Harry E. Drake, Jackson, \$2,294.40; Willis E. Stimson, Kalamazoo, \$2,522.50.
Missouri: Erbin F. Higgins, Sedalia, \$772.08.
Nebraska: Wilson Byerly, Norfolk, \$295.59; Jacob Renner, Lincoln, \$2,514; John J. Rodgers, Blair, \$992.79.
Nevada: John Glanzmann, Carson City, \$3,296.
New Hampshire: Henry C. Mace, Concord, \$461.45.

New Jersey: Silas A. Bryant, Newark, \$599.06; George Jacobus, Newark, \$1,596.75; William G. Jell, Newark, \$1,418; Fergus McCarthy, Newark, \$438.75; Conrad Wagner, Newark, \$295.31; Andrew J. Meade, Hoboken, \$1,147.18.

New York: Daniel P. Culhane, Rochester, \$2,078.75; Joseph C. Leddy, Utica, \$191.25; Ezra T. Marney, Ogdensburg, \$1,956.66; George Miller, Utica, \$767.06; Stephen A. Smith, Utica, \$259.50; Abraham Epstein, Ogdensburg, \$1,242.50; Robert Tobin, Troy, \$2,131.56.

Ohio: John Brodie, Columbus, \$659.20; Leslie E. Drake, Toledo, \$848.75; Stephen A. Ingles, Portsmouth, \$556.25; Rudolph L. Johns, Cleveland, \$532.25; Theodore Klipp, Dayton, \$540; William L. Krautman, Columbus, \$669.77; Joseph Kuehne, Cleveland, \$2,496.56; Charles H. McCann, Columbus, \$213.58; Thomas Murnane, Columbus, \$122.17; Ignac Rosinski, Cleveland, \$807.18; David Scurry, Columbus, \$533.40; Fred Sinclair, Columbus, \$386.25; Joseph Sledz, Cleveland, \$720.69; Alonzo Thirkill, Dayton, \$775.31.

Pennsylvania: James Dowling, Altoona, \$382.59; Adam Hoke, Harrisburg, \$1,151.62; William T. Jordan, York, \$583.50; William H. Witte, York, \$2,145.

South Carolina: James Butler, Columbia, \$1,041.06; John Pinckney, Columbia, \$871.92; Louis Pryor, Columbia, \$4,310.66.

Texas: Frank Brodtker, Galveston, \$1,956.62; Sandy Hester, Galveston, \$2,273.33; George King, Austin, \$351.18; Thomas Thompson, Waco, \$1,169.53; Ambrose B. Williams, Beaumont, \$736.50; Sidney B. Williams, Beaumont, \$593.76.

Virginia: Charles B. Carter, Richmond, \$219.80; William H. Parker, Norfolk, \$1,147.87; William G. Singleton, Richmond, \$2,050.56; Alfred Strange, Lynchburg, \$647.29.

Wisconsin: Olaf Swanson, Ashland, \$2,001.99.

The PRESIDENT pro tempore. The question is on agreeing to the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. CRAWFORD. Mr. President, the rules under which the Committee on Claims proceeded in making up the omnibus claims bill confined the items which were to go into the bill to those which had been referred to the Court of Claims and in regard to which the Court of Claims had made specific findings in favor of the claims. These are not the claims of laborers engaged on public works, serving contractors or subcontractors, and they do not come within the provisions of the eight-hour-day law.

Mr. NEWLANDS. May I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nevada?

Mr. CRAWFORD. I do.

Mr. NEWLANDS. I do not understand that statement on the part of the Senator.

Mr. CRAWFORD. The statute, known as the eight-hour-day law, found in volume 2 of the Supplement to the Revised Statutes of the United States, at page 62, fixing the limit of service per day at eight hours, applies to laborers and mechanics—

who are now, or may hereafter be, employed by the Government of the United States, by the District of Columbia, or by any contractor or subcontractor upon any of the public works of the United States or of the said District of Columbia.

Mr. NEWLANDS. Does the Senator insist that it applies only to laborers who are engaged upon public works?

Mr. CRAWFORD. If the Senator will permit me to finish my statement he will see just exactly what I mean.

The class of employees included in the proposed amendment is not a class of laborers employed by contractors and subcontractors in the construction of public works or upon public works. These men are engineers, custodians, and janitors employed in the public buildings of the United States—in post-office buildings and buildings of that sort.

The Court of Claims, in making its report upon each one of these claims, made this specific finding, which excluded them from consideration in making up the bill under the rule adopted by the Committee on Claims in framing the omnibus claims bill. On each one there is the following finding. The court finds that—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

That is the clear, specific finding of the Court of Claims in each case.

I am not going to discuss with the Senator from Nevada the question whether or not that finding is a just one, or as to whether this group of claims, presented in another way and for consideration at another time, might not have some merit. I do not care to express an opinion upon that subject now. I am not out of sympathy with this class of men, nor with the claim for an eight-hour-day law. But after the committee has worked for months along certain specific lines and within certain specific rules in determining what items should be placed in the bill and reported favorably it would not be fair to others who may have just claims against the Government, at the last mo-

ment, here in the Senate, to depart from the rules adopted in making up the bill and open the door to a large class of claims, with this finding from the Court of Claims standing here as it does to prohibit their going into the bill unless we violate the rules which we followed in framing it.

It is upon that ground, so as to be consistent and fair and just to other claimants whose claims, because they did not fall within the rules that governed us here, shall not be discriminated against, that we can not consent to this amendment and must insist, in fairness to others, that it be rejected.

For instance, the Senator from Oregon [Mr. CHAMBERLAIN], who is most earnestly interested in a claim, came to me only the other day about the claim. Knowing the Senator's earnestness in its behalf, and the courtesy which he always extends to others, I would have been glad to have given it consideration. But it was not suggested nor presented when we were making up the bill, nor even considered. It would be unfair to the claim of the Senator from Oregon now to reconsider the bill simply for the purpose of allowing the claims which the Senator from Nevada has presented and not to include his. If we included his, some one else might bring forward for the first time some claim that had possible merit in it, which never had been considered by the committee, and which did not come within the rules under which the committee was acting, and there would be a contention that that ought to be included. So there would be no line circumscribing the items going into the bill.

Those considerations, together with this finding from the Court of Claims, impel me to resist the amendment offered at this time by the Senator from Nevada.

Mr. NEWLANDS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Nevada suggests the absence of a quorum. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|--------------|----------------|----------------|--------------|
| Ashurst | Cullom | Lodge | Root |
| Bankhead | Dillingham | McCumber | Sanders |
| Bourne | Fletcher | Martin, Va. | Shively |
| Bradley | Foster | Martine, N. J. | Simmons |
| Brandegge | Gallinger | Myers | Smith, Ariz. |
| Bristow | Gamble | Newlands | Smith, Md. |
| Bryan | Gardner | O'Gorman | Smith, Mich. |
| Burnham | Guggenheim | Oliver | Smoot |
| Burns | Helms | Overman | Swanson |
| Cañon | Hitchcock | Paynter | Thomas |
| Chamberlain | Johnson, Me. | Penrose | Thornton |
| Chilton | Johnston, Ala. | Percy | Townsend |
| Clark, Wyo. | Johnston, Tex. | Perkins | |
| Clarke, Ark. | Kern | Perky | |
| Crawford | La Follette | Pomerene | |

Mr. KERN. I desire to announce again the unavoidable absence of the Senator from South Carolina [Mr. SMITH] on account of illness in his family.

The PRESIDENT pro tempore. On the call of the roll 57 Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS].

Mr. NEWLANDS. Mr. President, I will simply state to the Senate that we are about to take a vote upon these claims for extra pay for mechanics and laborers employed on public buildings under a law which required only eight hours' work and which made it absolutely unlawful for the officials of the Government to employ any man in excess of eight hours. We have here the findings of the Court of Claims that these 87 men, living in 25 States of the Union, as stated in this document, worked overtime, and their extra compensation would amount to about \$92,000. A similar claim was passed some years ago by Congress. No such claim, to my knowledge, has been denied.

All that the chairman of the committee can say is that the finding of the Court of Claims determines that the officials of the Treasury Department in fixing the salaries did not take into consideration the number of hours. That is true; because they assumed, and they had the right to assume, that the number of hours would be the legal number of hours—eight hours a day—and that no official of the Government would commit a misdemeanor by requiring of an employee time in excess of eight hours. So, of course, the compensation was fixed without regard to the number of hours upon the assumption that the number of hours during which these men would be employed would comply with the legal requirements.

Mr. President, we have been legislating for years upon the labor question. Congress has determined that the Government of the United States shall be a model employer. It passed an eight-hour law with reference to mechanics and laborers engaged in the public service and prescribed that the limit of

their work should be eight hours. The courts determined that to be simply discretionary, and then Congress passed another act making it mandatory—making it unlawful for any official to employ a man in excess of eight hours.

Here are these men, our constituents in the various States, called upon in defiance of law to work often as many as 12 hours a day when the law requires only 8, rendering their claims to the Government, which have been favorably ascertained by the Court of Claims, and we are told that the Committee on Claims has selected a certain batch of claims which it thinks it can pass through the processes of accommodation or compromise between sections and classes and between the two Houses that have prevailed with reference to this matter.

I insist upon it that if it is a just claim it ought to be recognized by the Congress of the United States. It is the claim of a laboring man who has rendered an employer service under the command of his superior in defiance of law, and it presents equitable consideration to the Government for settlement, the Government itself having received in the case of many of these men four hours more work every day than they were called upon by the law to render.

Mr. PAYNTER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly.

Mr. PAYNTER. I just entered the Chamber a few moments ago, and I have not heard the discussion. Has the Court of Claims adjudicated this sum to be due these laborers?

Mr. NEWLANDS. I will give as a sample the case of John Glanzman, who is a laborer and watchman at a public building in Nevada. The Court of Claims finds that while employed as a watchman and laborer at a salary of \$720 a year, presumed to be fixed with reference to eight hours a day, the officials at the Treasury Department—

In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States, the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth without regard to the number of hours they might be required to labor.

The chairman of the committee seems to assume that when a court says that they fixed this compensation without regard to the number of hours, it is equivalent to a finding that they fixed the labor with regard to the number of hours; that the compensation was therefore fixed for a 9, 10, or 12 hour day instead of an 8-hour day, and that hence the \$720 allowed this man is ample compensation. The court finds that they fixed that compensation without considering at all the number of hours, and it is simply with reference to the character of the location that the law fixed the number of hours at 8 hours a day, not 12 hours a day.

Mr. PAYNTER. Mr. President—

The PRESIDENT pro tempore (Mr. BRANDEGEE in the chair). Does the Senator from Nevada yield to the Senator from Kentucky?

Mr. NEWLANDS. Certainly. I wish to say to the Senator that that is a sample of these claims.

Mr. PAYNTER. I wish to ask an additional question. Has the court ascertained the number of hours that they worked in excess of eight hours a day?

Mr. NEWLANDS. In each case the number of extra hours and the value.

Mr. PAYNTER. Has the court made any statement as to how it was that these employees worked more hours than they were required to do by law?

Mr. NEWLANDS. No; the court makes no statement about that. It simply finds the facts as to the employment, the character of the employment, the actual number of hours of overtime, and what that overtime was worth judged by the compensation which they received.

Mr. PAYNTER. The question in my mind is whether the service was voluntarily rendered by the parties.

Mr. NEWLANDS. The Senator will hardly claim that a laborer who responds to the demand of an official to work 12 hours when the law requires 8—

Mr. PAYNTER. I did not pretend to make any claim about it. I simply wish to be informed as to the facts.

Mr. NEWLANDS. Now, Mr. President, I should like to have a vote upon the amendment.

Mr. KERN. Mr. President, I should like to ask the Senator from Nevada a question. I observe from the papers I have here in all the cases where they set out the proceedings that one attorney appeared for all of them. I wish to inquire whether

some attorney has scoured the United States to hunt up these claims and whether he or they will get a very large part of this appropriation.

That is my first question. My second is this: I see that from my own State there is only one claim, and I imagine under this law, if the attorneys had used the proper diligence, they might have found a very large number of cases.

Mr. CRAWFORD. Mr. President, it is impossible for us to hear what the Senator from Indiana says.

The PRESIDENT pro tempore. The Senate will please observe order.

Mr. KERN. My question is whether the adoption of the amendment will not open the door to a large flood of similar claims, amounting to millions of dollars.

Mr. NEWLANDS. I will state regarding that that I represent simply a constituent of mine in Nevada, an honest, hard-working man named John Glanzman, universally respected there, who worked 12 hours a day as a watchman and laborer when the law required him to work only 8 hours a day, and that his pay was \$720 a year. He comes in with this claim aggregating \$3,296. He wrote me in regard to this matter and gave me the name of his attorney. I sent word to his attorney asking him to familiarize me with the facts in the case. The attorney seemed to me to be a very reputable and respectable man, who is practicing law here as any other man would, and who was presenting what he regarded as just claims against the Government. I found that there were other claims in the same category with that of my client, and I thought it would be better to get the united support of the Senators from the various States whose constituents were similarly affected with a view to getting action by this body, for I know how powerful the Committee on Claims is and how likely the body is always to accept its advice and to reject any claim which it does not favor, or, at all events, to postpone its consideration until the future. Hence, I want as much supporting power as possible in this matter. Having looked into all the findings, I had them grouped and I looked over them carefully; and having been satisfied with the justness of these claims, I presented them in one amendment.

I wish to say that this attorney has never been obtrusive in any way; that he has never been lobbying; that he has never been pushing. I sent for him to ascertain the facts, and the facts are presented in the statement which he got up at my request.

Now, with reference to a flood of claims, I wish to say there is no probability of a flood of claims, for the reason that of late years the departments have recognized their obligation under the law to pay for this overtime, and under regulations they are now paying for overtime without compelling the employees to resort to Congress or to the Court of Claims wherever they work more than eight hours a day. That is a matter of common occurrence in the departments, and I think I am safe in saying that all the claims extant are now covered by these judgments. That is my impression, at least.

Mr. SIMMONS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from North Carolina?

Mr. NEWLANDS. Certainly.

Mr. SIMMONS. I understood the Senator to say that now the departments are paying for overtime under the law of Congress. The question I wish to ask the Senator is whether in making the calculation as to what is due to these claimants the Court of Claims recognized the principle laid down by the law of Congress under which he says the departments are now paying for overtime, and whether it is based upon that principle adopted by Congress.

Mr. NEWLANDS. I assume they did. The Court of Claims ascertained the facts. The Court of Claims do not render judgments against the United States. They ascertain the facts, and those facts I have read. Those facts cover, first, the character of the employment; second, the rules which are followed in fixing the compensation of employees.

Mr. SIMMONS. When was that judgment rendered?

Mr. NEWLANDS. December 20, 1909.

Mr. SIMMONS. Has Congress fixed a scale of wages where employees work overtime since that date?

Mr. NEWLANDS. My understanding is that in all these employments of laborers, etc., the compensation is fixed by certain officials in the Treasury Department.

Mr. SIMMONS. That is under an act of Congress?

Mr. NEWLANDS. I presume it is under an act of Congress.

Mr. SIMMONS. And that act prescribes the basis of the calculation.

Mr. NEWLANDS. I do not know whether it prescribes the basis or not. At all events it fixed the compensation, and the

officials whose duty it was to fix the compensation say that they fixed it without considering the number of hours.

Mr. SIMMONS. The question I wish to ask is whether they fixed it under any rule of law or whether they fixed it upon some theory of just compensation evolved by themselves.

Mr. HITCHCOCK. I can answer the question asked by the Senator from North Carolina by reading finding No. 3 in the case quoted:

III. The number of hours worked by claimant in excess of 8 hours a day during the period from August 1, 1892, as set forth in Finding I, is 13.184; and his services for said hours, computed upon the basis of the salary he was receiving during said period, namely, \$720 per annum, would amount to \$3,296.

So the additional pay is allowed pro rata to the salary he received.

Mr. NEWLANDS. Mr. Casady, one of the officials of the Treasury Department, charged with the duty of fixing the compensation, says:

In fixing the compensation of these employees no consideration was given to the fact that they might or might not be required to work more than eight hours per day.

Employees, such as the claimants, whose duties required them to work more than eight hours per day at the public buildings where they were employed, do not receive any greater compensation than similar employees performing work at other public buildings who were not required to work more than eight hours per day.

Seven hundred and twenty dollars was fixed as the compensation, for instance, of a watchman and laborer. In the case of a man who labored in the building during the day and also acted as watchman his compensation was fixed, regardless of the number of hours. The record is that in some public buildings men worked 8 hours a day and got \$720, and in others they were called on to work 12 hours a day and received only \$720.

The PRESIDENT pro tempore. The question is on the amendment submitted by the Senator from Nevada.

Mr. CRAWFORD. Mr. President, I do not want the statement of the Senator from Nevada to go entirely without challenge, and some Senators have come in since I was on my feet before.

I desire again to disclaim absolutely and sweepingly any disposition to deprive any laborer anywhere of his right to benefit under any provision of law for an eight-hour day. I simply want to say that the Committee on Claims, as I said a while ago, had to fix a boundary line somewhere in determining what items would be placed in this particular bill, and it decided to confine the items to claims which had express decisions in their favor coming from the Court of Claims.

The claims which the Senator from Nevada is advocating do not have such a decision in their favor from the Court of Claims. I will again read the finding of that court which runs through every one of these cases. The court finds that:

II. In fixing the compensation and the number of assistant custodians, engineers, janitors, firemen, watchmen, and laborers necessary for the care and maintenance of public buildings belonging to the United States the Government officials charged with that duty took into consideration the locality in which they lived and the cost of living, the size of the building, the character and size of the plant the engineer would have to take charge of, and the mechanical equipment of the building, and fixed the yearly salary for such employees at what the work was worth, without regard to the number of hours they might be required to labor.

As I said a while ago, without making an issue or going into a discussion of these particular claims, the Committee on Claims, under the rules which they adopted for guidance as to what should be put into the omnibus claims bill, had to reject these claims from that bill to be fair to other claims which were excluded by its rules, because these claims did not come within their rules.

As I said, if we open up this bill now, the Senator from Oregon [Mr. CHAMBERLAIN], who has been so considerate and fair with reference to his claim, has just as much right to insist that we send his claim to the committee and travel over the whole question with reference to the Oregon claim and have it up for discussion here as the Senator from Nevada has a right to have this whole question reviewed for this class of claims.

If we concede it to the Senator from Oregon any other Senator might think there was some claim that was not within the rules governing the committee which should be considered, and the whole question would come up for review, and the procedure on which it was necessary for the committee to follow in deciding what should go into the omnibus claims bill would be completely broken down and we would be simply at chaos. It is hardly—

Mr. NEWLANDS. May I ask the Senator a question?

Mr. CRAWFORD. In just a moment, when I finish the sentence. The Senator is hardly fair to this committee in making the inference that it has made up this bill simply by balancing one claim against another for the purpose of passing it. I

care very little about the question of the mere passage of the bill. The committee has done faithful and diligent work in attempting at least to scrutinize very closely the character of every claim in the bill. I think we have excluded more items that were questionable than has ever been done before in an omnibus claims bill. Our work has been along that line particularly rather than trying with a dragnet to pull claims in concerning which there might be some doubt.

Mr. PAYNTER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. CRAWFORD. Certainly.

Mr. PAYNTER. I did not rise for the purpose of criticizing the conduct just described by the Senator from South Dakota. I am almost tempted to do so, however, by reason of the fact that so many very just claims were excluded by the committee from the bill.

Mr. CRAWFORD. I will say to the Senator that they go to conference, and if the Senator feels that they have been put out unjustly they have to be dealt with in conference.

Mr. PAYNTER. I wish to call the Senator's attention to this fact for the purpose of inquiring as to whether my view is correct or not. If I understood the finding which the Senator read a moment ago to the Senate, it was to the effect that the compensation was fixed for these watchmen and laborers regardless of the hours which they might be employed. Is that correct?

Mr. CRAWFORD. I simply read the finding which said it was fixed at what the service was worth.

Mr. PAYNTER. If that is the case, then it would look like those who fixed the salary fixed it at a less amount than was fixed by the law under which eight hours had been established as a day's work.

Mr. CRAWFORD. I think that is a fair inference.

Mr. PAYNTER. That is a fair inference to be drawn from the finding. I understood the Senator to state that there had been no finding in favor of these claims by the Court of Claims.

Mr. CRAWFORD. The only finding is the one which I read.

Mr. PAYNTER. Except the one which the Senator read.

Mr. CRAWFORD. Yes; except that they did ascertain from their time-keeping records how many hours these men worked. That is true; but the finding as to the merits of their claim and the conclusion of the Court of Claims was the one which I read, where they said they took into consideration the environment, the cost of living, the conditions surrounding them, and fixed the yearly compensation at what the service was worth.

Mr. NEWLANDS. But the Senator construes that as fixing the compensation at what the work was worth with regard to the number of hours instead of, as the Court of Claims says, without regard to the number of hours.

Mr. CRAWFORD. No; the Senator construed it and the committee construed it simply to this extent, that it did not bring these claims within the group and class of claims we were putting in the omnibus claims bill, because we were putting in that bill only those claims where the findings of the Court of Claims were clear and unequivocal in their favor, and with this finding we could not put this group of claims in that class.

Mr. NEWLANDS. I can not understand how a finding can be clearer than this one, when they fix the compensation and then say, "We did not take into consideration at all the number of hours." The assumption is, of course, that the number of hours would be the legal number of hours.

Mr. CRAWFORD. Mr. President, the mere fact that we, under these rules, did not embrace these claims in the bill, finding it necessary to follow some rule, does not mean, as I said, foreclosing these people or erecting a bar or entering judgment against them. Whatever merit they have, I think, it would be fairly well to group them together in one bill and present it here and let it be considered on its merits. But I repeat that in a great bill embracing claims—and they are stacked up before the committee by the hundreds and by the thousands—it is necessary in framing the bill to fix some boundary line and some rule, and after you have once established it to follow it, or there will be just reason of complaint on the part of different Senators. If you break it down and discriminate in favor of one Senator and show a disposition to be partial here and partial there, your troubles would certainly be abundant. We have tried to honestly and fairly adhere to the rules which were adopted by the committee.

Mr. HITCHCOCK. I should like to ask the chairman of the committee whether it is not a fact that the findings of the court, as far as the facts are concerned, are clear and unqualified?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. First, that the men did work so many hours overtime?

Mr. CRAWFORD. That is true.

Mr. HITCHCOCK. Second, that the rate of pay was so much; and, third, that at that rate of pay they would be entitled to so much money if the eight-hour law was to be respected?

Mr. CRAWFORD. That is all true.

Mr. HITCHCOCK. Now, if those findings of fact are clear, does not the chairman of the committee think these claims presented by laborers should have been entitled to come within the boundary which he laid out for the bill?

Mr. CRAWFORD. Well, it is too late to go back and go all over that ground again. I do not think so, for this reason: Suppose the compensation was \$10,000 a year. Let us make an extravagant assumption. If that salary of \$10,000 a year had been prorated per hour, they worked so many hours, and they would be entitled, if the time was limited to eight hours a day, to so much more than they received. You can not cut that loose from the conclusion of the Court of Claims, where the Court of Claims says that in fixing that yearly salary they fixed it at what this labor was worth, and if they fixed it at \$1,600 a year, they fixed it because in the opinion of the Treasury officials the services of that janitor were worth \$1,600. Although he might work 8 hours one day and 9 hours the next day, and under some emergency 10 hours the next day, when they gave \$1,600 for the year they gave him what that service was worth. There is that finding to which we considered we should give some weight.

Mr. HITCHCOCK. I should like to continue my question. If the Court of Claims made these findings of fact, I ask the chairman of the committee was there anything else for the committee to do, or is there anything else for Congress to do, but to say whether the eight-hour law shall be applied to those facts? If that be true, why should that not be done now, rather than keep these laboring men waiting 15 or 20 years to secure the payment of their claims?

Mr. CRAWFORD. I think there was something else to do.

Mr. HITCHCOCK. Nothing but the application of the law.

Mr. CRAWFORD. There was the duty of giving consideration to its conclusion that in fixing the yearly salary they fixed it at what the service was worth; and if these men have received what that service is worth, if that finding by the Court of Claims is true in fact, then wherein does the Government do these men any injustice?

Mr. NEWLANDS. Did they not fix this compensation at what it was worth at eight hours a day?

Mr. CRAWFORD. They do not say anything of the sort, but they do say that they fixed it for what the service was worth, without regard to the number of hours.

Mr. HITCHCOCK. Will the chairman contend—

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. Yes.

The PRESIDENT pro tempore. Senators will kindly address the Chair and get permission to interrupt.

Mr. HITCHCOCK. Mr. President—

The PRESIDENT pro tempore. The Senator from Nebraska.

Mr. HITCHCOCK. Will the chairman of the committee contend that these administrative officers of the department had any right to fix the amount which should be paid to these men for a year's work, without regard to the hours of daily labor, after Congress had prescribed the hours that they should work each day?

Mr. CRAWFORD. The Senator there opens up another question, which shows—

Mr. HITCHCOCK. Is not that the only question in the case?

Mr. CRAWFORD. Oh, no; the Senator opens up another question, which shows how unfair it is to the committee at this late day to bring in this amendment, when the rules followed by the committee do not permit it, because the language of the eight-hour statute applies to men engaged upon public works; and a post-office building in which a man is acting as a janitor or custodian is certainly a different class of work, and, in contemplation of the language used, there is a question of whether that statute applies to the janitor or to the engineer or the custodian in such a building.

Mr. HITCHCOCK. Let me ask the Senator this question—

Mr. CRAWFORD. What about the custodian of a public building?

Mr. HITCHCOCK. Let me ask the chairman this question right there. Is it not a fact that universally the eight-hour law applies not only to public works but to all work done by a contractor for the Government and to these very custodians and watchmen?

Mr. CRAWFORD. I think that is true.

Mr. HITCHCOCK. Well, if that is the fact and that was the intention of Congress, why are the claims of these men not upon a just basis?

Mr. CRAWFORD. I have tried to explain.

Mr. HITCHCOCK. The chairman complains that this is called to the attention of the committee at this late hour. I want to call his attention to the fact that the hour is still later for these men who have been waiting a good many years to ascertain whether Congress meant what the law said it should mean.

Mr. CRAWFORD. I understand the situation very well; but I say to the Senator, if this finding is true and correct, that their compensation was fixed at what the service was worth. It was not fixed by the hour; it was not fixed by the month; but it was fixed by the year.

Mr. HITCHCOCK. But I will say to the Senator again—

Mr. CRAWFORD. And it was fixed at what the service was worth. Then, if that contention is correct as to every farmer in the United States who has employed a plowboy or has employed a man to work by the year, at \$400 or \$600 a year, it would be equally just to go back and review that contract and to say that, in the contemplation of law, it was only intended that that plowboy or that man working in the field should be engaged for eight hours a day, and ask the farmer to go back and compute the number of hours the boy milking the cows late at night and getting up at 4 o'clock in the morning, going into the field and working 14 and even 15 hours a day, as I know many and many of them do—you would have in principle just as much right to go back and make that farmer review the service of that employee, to clip off the service at the end of eight hours, and apportion that \$400 a year to it, and then give the employee a judgment for the difference.

There are two sides to this question. The Senator drives me to it, and I do it with the utmost liberality, kindness, and fairness toward these janitors and these engineers, but I say the committee was justified, and it was consistent, after establishing these rules, in adhering to them and keeping this group of claims upon which this finding was made for consideration strictly upon their merits instead of putting them into this bill, and that is as far as we go in the matter.

Mr. HITCHCOCK. Mr. President, I am amazed that the Senator from South Dakota should attempt to compare or to give as a parallel case the farmer employing a man by the year or the month without any limitation by law as to the number of hours that he can contract with his man to work—

Mr. CRAWFORD. I am discussing—

Mr. HITCHCOCK. Let me finish.

Mr. CRAWFORD. Very well.

Mr. HITCHCOCK. And the case of a Government employee, who is supposed to be acting under the direction of Congress, after Congress has directed that the men employed shall work only eight hours, and when, as a matter of fact, the employee of the Government has no power to make a contract, but has a right to depend upon the acts of Congress made for his protection.

Mr. CRAWFORD. Will the Senator permit me to say he is now discussing a law that was passed after this service was rendered?

Mr. HITCHCOCK. I am not discussing a law that was passed afterwards. I am discussing a law that was passed previously. It has been necessary, however, since 1892 to pass a number of supplemental acts in order to enforce and emphasize the will of Congress and to compel these administrative officials to obey it. That is the only reason subsequent laws were passed.

Mr. CRAWFORD. The Senator can not make any issue with me as to the justice and soundness of the eight-hour-day law, but I reiterate that in principle, in morals, and from the standpoint of the personal right of the individual, the janitor in a public building is not any better than the plowboy; the engineer in the basement of a Government post-office building is not any better than the boy who gets up at 4 o'clock in the morning on the farm and works until 10 o'clock at night—not a bit. I am speaking as a matter of principle and of moral right.

Mr. CLARKE of Arkansas. May I ask the Senator from South Dakota a question?

The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Arkansas?

Mr. CRAWFORD. Certainly.

Mr. CLARKE of Arkansas. Does it appear that these claims have been assigned or is there an affirmative showing that they are still in the ownership of the persons who rendered this so-called service?

Mr. CRAWFORD. We know nothing about that, if the Senator please.

Mr. CLARKE of Arkansas. Does the Senator know what part of this money would go to the claim agents, who probably worked up these claims, in the event this item should be included?

Mr. CRAWFORD. I will say that a number of these claims have been worked up by attorneys. I am going to discuss one in a few moments, if we ever get through with this matter, the case of the Cramp Shipbuilding Co., and I should like to get through with this so as take that up. I have a few things to say to the Senate about it.

Mr. CLARKE of Arkansas. If the Senator is not prepared to answer at this time the question I submitted to him, I will ask permission to ask him again at a little later stage of the discussion.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Nevada [Mr. NEWLANDS].

Mr. HITCHCOCK. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GARDNER (when his name was called). I am paired for the day with the Senator from Massachusetts [Mr. CRANE] and therefore withhold my vote.

Mr. TOWNSEND (when the name of Mr. JONES was called). The senior Senator from Washington [Mr. JONES] is unavoidably detained from the Senate on official business.

Mr. KERN (when his name was called). I have a general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. LIPPITT (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I do not know how that Senator would vote if present, and I therefore withhold my vote.

Mr. PAYNTER (when his name was called). I have a general pair with the senior Senator from Colorado [Mr. GUGGENHEIM] and therefore withhold my vote.

Mr. PERKINS (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. Not knowing how he would vote on this question if present, I withhold my vote.

Mr. SIMMONS (when his name was called). I have a general pair with the junior Senator from Minnesota [Mr. CLAPP]. I do not know how he would vote if present, and I therefore withhold my vote.

Mr. STONE (when his name was called). I have a general pair with the Senator from Wyoming [Mr. CLARK]. I do not know how he would vote if present, and so I withhold my vote. The roll call was concluded.

Mr. CURTIS. I desire to announce that I have a pair with the Senator from Oklahoma [Mr. OWEN], and I therefore withhold my vote.

Mr. DU PONT. I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. As he is not in the Chamber I withhold my vote.

Mr. MYERS. I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN] and therefore withholds his vote.

The result was announced—yeas 19, nays 28, as follows:

YEAS—19.

| | | | |
|-------------|--------------|----------------|--------------|
| Ashurst | Fletcher | Martine, N. J. | Shively |
| Bankhead | Gore | Myers | Smith, Ariz. |
| Burton | Hitchcock | Newlands | Smith, Md. |
| Chamberlain | Johnson, Me. | Perky | Works |
| Chilton | La Follette | Pomerene | |

NAYS—28.

| | | | |
|--------------|---------------|-------------|------------|
| Bourne | Dillingham | Martin, Va. | Smoot |
| Bristow | Gamble | Nelson | Sutherland |
| Brown | Gronna | Oliver | Swanson |
| Burnham | Heiskell | Page | Thornton |
| Clarke, Ark. | Johnson, Ala. | Polindexter | Tillman |
| Crawford | Lippitt | Root | Townsend |
| Cullom | McCumber | Sanders | Wetmore |

NOT VOTING—48.

| | | | |
|-----------|--------|-------------|---------|
| Bacon | Briggs | Clark, Wyo. | Curtis |
| Borah | Bryan | Crane | du Pont |
| Bradley | Catron | Culbertson | Fall |
| Brandegge | Clapp | Cummins | |

| | | | |
|----------------|----------|------------|--------------|
| Foster | Kern | Paynter | Smith, Mich. |
| Gallinger | Lea | Penrose | Smith, S. C. |
| Gardner | Lodge | Percy | Stephenson |
| Guggenheim | McLean | Perkins | Stone |
| Johnson | Massey | Reed | Thomas |
| Johnston, Tex. | O'Gorman | Richardson | Warren |
| Jones | Overman | Simmons | Watson |
| Kenyon | Owen | Smith, Ga. | Williams |

The PRESIDENT pro tempore. Less than a quorum has voted.

Mr. CRAWFORD. I ask for a call of the absentees.

The PRESIDENT pro tempore. The roll will be called under the rule.

The Secretary called the roll, and the following Senators answered to their names:

| | | | |
|--------------|----------------|----------------|-------------|
| Bankhead | Dillingham | Lippitt | Polindexter |
| Bourne | du Pont | Lodge | Pomerene |
| Brandegge | Foster | McCumber | Sanders |
| Bristow | Gallinger | Martin, Va. | Simmons |
| Brown | Gardner | Martine, N. J. | Smith, Md. |
| Burnham | Gore | Myers | Smoot |
| Burton | Gronna | Nelson | Sutherland |
| Chamberlain | Heiskell | Newlands | Swanson |
| Chilton | Hitchcock | Oliver | Thomas |
| Clarke, Ark. | Johnson, Me. | Page | Thornton |
| Crawford | Johnson, Ala. | Paynter | Townsend |
| Cullom | Johnston, Tex. | Perkins | Wetmore |
| Cummins | La Follette | Perky | Works |

The PRESIDENT pro tempore. Fifty-two Senators have answered to their names. A quorum of the Senate is present. The question is on the amendment submitted by the Senator from Nevada [Mr. NEWLANDS], upon which the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. DU PONT (when his name was called). I have a general pair with the senior Senator from Texas [Mr. CULBERSON]. In his absence from the Chamber I withhold my vote.

Mr. FOSTER (when his name was called). I have a general pair with the junior Senator from Wyoming [Mr. CLARK], who is absent. I therefore withhold my vote.

The PRESIDENT pro tempore (when Mr. GALLINGER's name was called). The occupant of the chair is paired with the junior Senator from New York [Mr. O'GORMAN]; but he transfers that pair to the junior Senator from Nevada [Mr. MASSEY], and will vote "yea."

Mr. GARDNER (when his name was called). I again announce my pair with the Senator from Massachusetts [Mr. CRANE].

Mr. KERN (when his name was called). I again announce my general pair with the Senator from Kentucky [Mr. BRADLEY]. Not knowing how he would vote if he were present, I withhold my vote.

Mr. TOWNSEND (when Mr. JONES's name was called). I again desire to announce the necessary absence on business of the Senate of the Senator from Washington [Mr. JONES].

Mr. LIPPITT (when his name was called). I again announce the transfer of my pair with the senior Senator from Tennessee [Mr. LEA] to the junior Senator from Maryland [Mr. JACKSON] and will vote. I vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. SMITH]. I transfer that pair to the senior Senator from New Mexico [Mr. CATRON] and will vote. I vote "yea."

Mr. MYERS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. MCLEAN]. I transfer that pair to the junior Senator from Florida [Mr. BRYAN] and will vote. I vote "yea."

Mr. PAYNTER (when his name was called). I again announce my pair with the senior Senator from Colorado [Mr. GUGGENHEIM]. In his absence I withhold my vote.

Mr. PERKINS (when his name was called). I again announce my general pair with the junior Senator from North Carolina [Mr. OVERMAN].

The roll call was concluded.

Mr. DILLINGHAM. I have a general pair with the Senator from South Carolina [Mr. TILLMAN]; but I am advised that on the previous roll call he voted as I did, and, therefore, I feel at liberty to vote, and will allow my vote in the negative to stand.

Mr. SIMMONS. I desire again to announce my pair with the Senator from Minnesota [Mr. CLAPP].

The result was announced—yeas 20, nays 29, as follows:

YEAS—20.

| | | | |
|-------------|--------------|----------------|--------------|
| Ashurst | Gallinger | Martine, N. J. | Pomerene |
| Bankhead | Hitchcock | Myers | Shively |
| Brown | Johnson, Me. | Newlands | Smith, Ariz. |
| Burton | La Follette | Percy | Smith, Md. |
| Chamberlain | Lodge | Perky | Works |

NAYS—29.

| | | | |
|-----------|--------------|---------|--------|
| Bourne | Burnham | Cullom | Gamble |
| Brandegge | Clarke, Ark. | Cummins | Gore |
| Bristow | Crawford | Curtis | Gronna |

Heiskell
Johnston, Ala.
Johnston, Tex.
Lippitt
McCumber

Martin, Va.
Nelson
Oliver
Page
Poindexter

Sanders
Smoot
Sutherland
Swanson
Thornton

Townsend
Wetmore

NOT VOTING—46.

Bacon
Borah
Bradley
Briggs
Bryan
Cairn
Chilton
Clapp
Clark, Wyo.
Crane
Culbertson
Dillingham

Dixon
du Pont
Fall
Fletcher
Foster
Gardner
Guggenheim
Jackson
Jones
Kenyon
Kern
Lea

McLean
Massey
O'Gorman
Overman
Owen
Paynter
Penrose
Perkins
Reed
Richardson
Root
Simmons

Smith, Ga.
Smith, Mich.
Smith, S. C.
Stephenson
Stone
Thomas
Tillman
Warren
Watson
Williams

So Mr. NEWLAND's amendment was rejected.

The bill was ordered to a third reading, read the third time, and passed.

Mr. CRAWFORD. Mr. President, the omnibus claims bill, just passed, has been amended so radically that there is not the slightest doubt that the House will reject the amendments and ask for a conference. To save time—and I understand it is not without precedent—I move that the Senate request a conference with the House of Representatives upon its amendments, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to; and the President pro tempore appointed Mr. CRAWFORD, Mr. TOWNSEND, and Mr. BRYAN the conferees on the part of the Senate.

CONSTRUCTORS OF THE BATTLESHIP "INDIANA."

Mr. CRAWFORD. Mr. President, I move that the Senate proceed to the consideration of the bill (S. 4840) to carry into effect the judgment of the Court of Claims in favor of the contractors for building the U. S. battleship *Indiana*, with a view to its indefinite postponement. It is accompanied by an adverse report from the Committee on Claims.

The motion was agreed to.

The PRESIDENT pro tempore. The question is upon the indefinite postponement of the bill.

Mr. CRAWFORD. Mr. President, on that question I desire to be heard.

Mr. SMOOT. Mr. President—

Mr. CRAWFORD. Does the Senator from Utah desire to submit a statement?

Mr. SMOOT. Yes; I desire to submit a statement.

Mr. CRAWFORD. I yield to the Senator for that purpose.

Mr. SMOOT. Mr. President, in 1908 a bill identical with this passed the Senate, upon a favorable report from the Committee on Claims. At that time it was referred to me as a subcommittee, and I made a favorable report. When the report was made at this session of Congress I was not at the meeting that authorized the report, and I claim no courtesy because of that fact. I received a letter from a party in New York asking me if I had changed my views upon this particular bill, and among other things asking me if not to let him know. He inclosed a copy of the report that I made on February 17, 1908.

I wish to say to the Senate that at that time I went into the claim very thoroughly, as I thought. I had the contract before me. I secured all the information that I could from the Court of Claims. I submitted a favorable report on the bill. The bill under consideration is a claim by the builders of the battleship *Indiana*, by which they are seeking reimbursement of the expenses to which they were put for the care, maintenance, preservation, insurance, and wharfage during a delay or two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly." This has been agreed to not only by the department and the Secretary of the Navy, but the Senators will find in the report that I made a statement from each and every one of the parties that had anything to do with the contract and building of the battleship *Indiana*.

The Court of Claims, after a protracted trial, found that the necessary and reasonable cost during this delay, which they found was solely and entirely due to the fault of the United States, amounted to \$177,823.55; but on account of a release given on May 10, 1894, at the time of an advance payment by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date, for a period of one year, six months, and nine days, and gave judgment for the sum of \$135,560. In the report you will see these findings set out in detail.

The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt

and release given May 10, 1896, upon the payment to the builders of the balance of the contract price, viz, \$41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to \$177,823.55 additional. The equities were not considered by the Supreme Court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company. Of course I included a copy of that letter in my report.

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of the ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hichborn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract by the giving or accepting of the receipt to in any way waive, bar, or settle the claim now presented.

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy, and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveyized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. F. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases.

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid.

I do not want to take the time of the Senate to go into all of the details, but I simply wanted to tell the Senate why I made the favorable report upon this claim. It was not on account of any lack of endeavor on the part of the Cramp people to finish the *Indiana* on time that the loss to the company occurred, as the Secretary of the Navy states, not only by letter, but by a statement made under oath. All parties concerned recommend that this claim be paid, because it was no fault of the company that a loss occurred.

I will take it for granted that there is not a Senator who knows my record upon the Claims Committee who does not know that I am not in favor of paying claims against the Government unless I find that there is some good reason for doing so. I am not going to go into any lengthy discussion of this matter. The committee reported adversely upon the claim, and I simply make this statement now to place myself right, having been asked as to whether or not I had changed my views upon this particular claim.

I do not think there is any necessity for my saying any more. The builders of all the other vessels that were built under the same conditions and that were held up for the same identical reasons have been reimbursed. If the Senate of the United States does not desire to reimburse this company for the same kind of loss that all of the other companies sustained and have been paid for, I have not another word to say in relation to the matter.

Mr. CRAWFORD. Mr. President, in view of the rather peculiar situation of this claim, I am glad the Senator made his statement. I also wish to make a statement, because I want it to be a matter of record. It is not very long.

The Committee on Claims made an adverse report on this bill for the relief of William Cramp & Sons on March 28, 1912. Under the regular procedure it would have been indefinitely

postponed at once. At the time the adverse report was presented, however, an amendment had been proposed by the Senator from Pennsylvania and referred to the Committee on Claims, by which he sought to amend what is known as the omnibus claims bill—which at that time was being considered by the same committee—by inserting this claim in that bill. For that reason I asked that this bill go on the calendar, so that the proposed amendment and the bill might be considered together in connection with the adverse report when the omnibus claims bill came before the Senate.

The committee having reported the bill adversely, declined to accept the proposed amendment, of course. During all the time we were considering the omnibus claims bill here this amendment was not presented by the Senator from Pennsylvania, nor by any other Senator. The Senator who proposed it told me that he did not intend to press it.

After the omnibus claims bill had passed the Senate, I assumed, as a matter of course, that this bill, upon my suggestion and upon the adverse report, would be indefinitely postponed. This adverse report has been here for 10 months. No minority views have been presented. An amendment proposing the same relief has been abandoned; and it is difficult to understand why at this late date there should be a disposition to depart from the usual practice of indefinite postponement in such cases.

The Senator from Utah the other day asked that the bill be placed under Rule IX, which would indicate that he preferred to have it die there rather than to have the Senate act in the usual way by indefinitely postponing it upon the adverse report. In fact, sir, I have discovered several attempts to get that adverse report out of the way in some manner other than the usual one, of either taking issue with it by presenting minority views or having the bill indefinitely postponed upon it.

Very soon after the adverse report was filed a gentleman who was actively engaged in lobbying for the bill came into my committee room and asked the clerk of the committee to show him the records and minutes kept of the proceedings, so that he might, if possible, make the claim that a quorum of the committee was not present when the report was ordered. He did this in my absence and without so much as asking my leave. It looked like impudence and effrontery to me for a lobbyist to go to a committee room and in the absence of the chairman attempt to secure evidence upon which to impeach the committee's report.

Failing in that, I next discovered that this same gentleman was attempting to canvass the individual members of the committee and to secure their signatures to a written request that this adverse report be withdrawn. I am glad to say that he did not get very far with that; but it was a most extraordinary proceeding.

It seems to me there is a manifest desire to deal with this adverse report in some unusual way instead of following the regular procedure. Under the circumstances, I think it is my duty to lay before the Senate briefly the facts disclosed in the report.

The William Cramp & Sons Ship and Engine Building Co. entered into a written contract with the Government on November 10, 1890, in which it undertook, for the sum of \$3,020,000, at its own risk and expense, to construct a coast-line battleship, afterwards known as the *Indiana*. Certain portions of the armor were to be furnished by the Government and delivered at the Cramp shipyards in the order and at the times required to carry on the work properly. The vessel was to be completed within three years from the date of the contract, and heavy penalties were provided in case of delays beyond this period for which the shipbuilding company was to blame. On the other hand, it was clearly provided when the delay was caused by the fault of the Government that the builder should be relieved of penalties and entitled to a corresponding extension of the period prescribed for the completion of the vessel. The contract was carefully balanced in this as in all other particulars. The expenses incurred in the preparations for trial tests and of the preliminary trial tests of the vessel were to be borne by the shipbuilder, but the expense of the final trial before acceptance, if successful, was to be paid by the Government. Payment was to be made by the Government in 30 equal installments as the work progressed, with a reservation of 10 per cent from each installment. The last three installments and the reservations, except the sum of \$60,000, were to be made after the preliminary trial test if approved. The \$60,000 was not to be paid until the final trial and acceptance of the vessel, and then only upon the execution by the shipbuilder of a full and complete release of all claims of any kind or description under or by virtue of the contract.

The contract is clear and unequivocal throughout. There is no ambiguity or uncertainty in it. There is nothing in it call-

ing for oral interpretation or explanation. It speaks plainly. It is an all-sufficient witness as to its meaning, and parol testimony to vary or explain its clear meaning would not be admitted in any court in the absence of any charge of fraud, duress, or mistake.

Because the Government was unable to furnish the armor when needed the completion of the vessel was delayed about two years. This delay caused the parties on May 10, 1894, to execute a written memorandum modifying the original contract in one respect only, but providing that in all other respects it should remain unchanged and unaffected in its legal effect. The agreement of modification was to this effect:

It was agreed that the payment of the last three installments of the contract price and the reservations of 10 per cent in previous payments should not be withheld until after the preliminary trial and conditional acceptance of the vessel, but that the Government would pay the contractor at once these installments and reservations, retaining only a sufficient sum to cover the special reserve of \$60,000, the cost of all unfinished work, all deductions likely to be made on account of deficiencies in speed, and other contingencies that might arise. In such event the building company was to give the Government a bond with approved security for indemnity against loss or injury by reason of the payment. The shipbuilding company, in consideration of these advance payments, released the Government from every claim for loss or damage occasioned by its failure to furnish armor as contemplated in the original agreement.

The ship was finally completed and accepted on the 18th of May, 1896, at which time the Government paid the Cramp Shipbuilding Co. the reserved balance of the \$60,000, and received from that company a release forever discharging and releasing the United States of and from "all and all manner of debts, dues, sums, and sums of money, accounts, reckonings, claims, and demands whatsoever, in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid."

This release was signed and sealed by Charles H. Cramp, president of the company, and delivered to the Department of the Navy. There was nothing unconscionable in this contract. It is not claimed that, notwithstanding the delay, the Cramp Shipbuilding Co. did not make a good profit in the performance of it. It is not claimed that it was deceived by any misrepresentations into making it. No action to re-form the contract or be relieved from its terms because of fraud, mistake, or duress was ever begun in any court of equity. No proceeding of that kind was ever hinted at or suggested. At the time of final acceptance of the vessel and payment of the balance due the Cramp Shipbuilding Co. executed this full and sweeping release, without asserting or suggesting that it had sustained damages. It received the money, executed the release, and delivered over the vessel to the Government without making any such claim. These things were done under and within the clear provisions of the contract itself.

But after a whole year and a quarter had passed this company began a suit against the Government in the Court of Claims.

It was not referred there by Congress. They began an original suit there in which the company asked judgment for the sum of \$480,231.

To show the character of this claim, I wish to call the attention of the Senate to some of the items specified in the petition which it filed:

It says its business was so large that in order to obtain more room for materials for the vessels under construction, of which the *Indiana* was one, it purchased additional ground at a cost of \$121,756.03 and erected thereon shops in which to handle material at an additional cost of \$3,000, and it wants to be reimbursed the sums it thus paid out for enlarging its own plant. It apportioned and charged up to this vessel a proportionate share of the value of the use of its yard, its tools, and machinery, the cost of superintendence, and the general upkeep of its yard for the period of two years, for which it asked \$72,000. It asked \$48,000 more for the care and protection of the vessel for two years; \$23,360 more for wharfage, which is the amount a merchant vessel of the same tonnage would have had to pay in the port of Philadelphia while stopping there on a commercial voyage; it asked to be reimbursed over \$5,000 for tug service not incurred in construction of the vessel but expended for its own benefit and convenience independently of the construction of this vessel; it wanted pay for dredging the basin occupied by the vessel and repayment of the insurance it had paid on the vessel for the period of two years immediately preceding the acceptance by the Government. It took the contract to build this vessel at its own risk and responsibility.

The Court of Claims found in its favor, by what seemed to me a very strange sort of computation, for \$135,560, and entered judgment against the Government for that amount from which an appeal was taken to the Supreme Court of the United States, which reversed the judgment on the merits and remanded the case with instructions to enter a judgment on the findings for the Government.

Mr. Justice Brewer delivered the opinion of the court, which was unanimous, and the court says, among other things:

To rightly understand the scope of this release we must consider the conditions of the contract and especially the clause in it which calls for a release. The contract was a large one, the price to be paid for the work and material being over \$3,000,000, and the contract was evidently designed to cover all contingencies. Provision was made for changes in the specifications, for penalties on account of delays of the contractor, deductions in price on certain conditions, approval of the work by the Secretary of the Navy, forfeiture of the contract, with authority to the Secretary to complete the vessel. The last paragraph contains the stipulations as to the amounts and times of payment with authority for increase of the gross amount upon certain conditions. The sixth clause of this paragraph makes special provision for the last payment, to be made—

The court quotes there the contract—

"when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part" and "on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy, of all claims of any kind or description under or by virtue of said contract." Evidently the parties contemplated and specially provided by this stipulation that the whole matter of the contract should be ended at the time of the final release and the last payment. That which was to be released was "all claims of any kind or description under or by virtue of said contract." Manifestly included within this was every claim arising not merely from a change in the specifications, but also growing out of the delay caused by the Government. The language is not alone "claims under," but "claims by virtue" of the contract—"claims of any kind or description." All the claims for which allowances were made in the judgment of the Court of Claims come within one or the other of these clauses. It may be that, strictly speaking, they were not claims under the contract, but they were clearly claims by virtue of the contract. Without it no such claims could have arisen. Now, it having been provided in advance that the contract should be closed up by the execution of a release of this kind it can not be that the company, when it signed the release, understood that some different kind of release was contemplated. It must have understood that it was the release required by the contract—a release intended to be of all claims of any kind or description under or by virtue of the contract, and that the form of words which the Secretary had approved was used to express that purpose. With that release stipulated for in the contract the company signed the instrument of May 18, 1896, which in terms purported to "remit, release, and forever discharge the United States of and from all manner of debts, dues, sum and sums of money, accounts, reckonings, claims, and demands whatsoever in law or in equity, for or by reason of or on account of the construction of said vessel under the contract aforesaid." Now, whatever limitation may be placed upon the words "for" or "on account of" the construction of the provision for the release of all claims and demands whatsoever, "by reason of the construction of the vessel under the contract aforesaid," is a recognition of the contract, and includes claims which arise by reason of the construction of the vessel under it. "By reason of" may well be considered as equivalent to "by virtue of." It is only by reason of the performance of the contract in the construction of the vessel that these claims arise. But for the contract and the construction of the vessel under it there would be no such claims. No payment of moneys not due is necessary to sustain this release. It is under seal, and the contract is itself full consideration. As of significance it must be borne in mind that the release referred specifically to the provisions in the sixth paragraph of the nineteenth clause of the contract which provided for the character of the release. Indeed, the general language of the release itself and the number of words of description in it show that it was the intent of the Secretary of the Navy to have a final closing of all matters arising under or by virtue of the contract.

Stipulations of this kind are not to be shorn of their efficiency by any narrow, technical, and close construction. The general language "all and all manner of debts," etc., indicates an intent to make an ending of every matter arising under or by virtue of the contract. If parties intend to leave some things open and unsettled their intent so to do should be made manifest. Here was a contract involving \$3,000,000, and after the work was done, the vessel delivered and accepted and this release entered, claims are presented amounting to over \$500,000. Surely the parties never intended to leave such a bulk of unsettled matters. As bearing upon this matter, it may be noticed that while the release was signed and the contract between the building company and the Government closed on May 18, 1896, this action was not brought until August 10, 1897, nearly a year and a quarter thereafter.

We are of opinion that the parties by the release of May 18, 1896, which was executed in performance of the requirements of the original contract, settled all disputes between the parties as to the claims sued upon.

The judgment of the Court of Claims is reversed and the case remanded with instructions to enter a judgment on the findings for the defendant.

Now, Mr. President, this powerful claimant voluntarily chose the forum in which to have the merits of its claim adjudicated. It brought the suit which terminated in this adverse decision by the highest judicial tribunal in the land. That court construed the contract and held that the claim could not be sustained under the law of the land. Ex parte affidavits made by Admiral Hichborn, Charles H. Cramp, and Lewis Nixon, who at the time of the building of the vessel was an employee of the Cramp Shipbuilding Co., and an affidavit of ex-Secretary Herbert have been obtained since the Supreme Court rendered the final decision in the case to support a contention that the

contract meant something different, or that the parties to it had a different intention in agreeing to it than its clear and unequivocal language shows, and that it was not intended to mean what it plainly says and what the Supreme Court says it means. But these affidavits are utterly worthless so far as they are intended to vary the plain terms of this long since executed contract by parole. Every lawyer knows that. The claim amounts to nothing more than a bounty or donation, and why should Congress give it to these claimants? What private suitor who had failed upon the merits to obtain a judgment would ask the successful defendant to make him a present of the amount in controversy?

This shipbuilding company has enjoyed a special privilege under the navigation laws of this country for years.

Mr. President, the present occupant of the chair will remember this incident. A few months ago an American citizen, who had purchased a foreign-built ship, appeared before the Senate Committee on Commerce in behalf of a bill which would admit this vessel to American registry. He was to expend a substantial sum of money in American shipyards in rebuilding and repairing this secondhand vessel. Nevertheless, a representative of this powerful shipbuilding company appeared and protested against the registry of this foreign-built vessel. I say it has enjoyed, and does now enjoy, a special privilege which makes the cost of building vessels in American shipyards 100 per cent higher than the same vessels would cost in foreign shipyards—a privilege which has made it impossible to build and maintain American vessels in over-seas trade. On top of this special privilege it asks for this gratuity, for it is nothing more than a donation.

Why should it receive such a favor? It is said that at other times, in connection with the construction of other vessels, this company and other shipbuilders have received donations of this kind. If that be true, there was never a better time than now to stop the bad practice. If instead of being a great and powerful shipbuilding company this claimant was a poor and obscure citizen, his claim would not be considered for a moment.

I call to mind many really pathetic cases of humble claimants who have had claims pending before Congress for years, in which there is no legal basis for the claims, but where there is much in the situation of the parties and the circumstances surrounding them to call forth the deepest sympathy and touch any heart that is human. I have in my mind now a helpless woman of culture and refinement, whose husband, while serving his country abroad as a consul, met with serious losses occasioned by the fluctuation and depreciation of the rupees in which his salary was paid; a splendid man who, in entertaining visiting Americans who came to Bombay, used funds which he had received as fees and perquisites—according to a custom which had previously prevailed—but for which he was required to account. To save his bondsmen from loss he returned to the United States and sold all the property he had in the world, including his homestead. He died penniless and of a broken heart. The widow, who survived him, presented a claim for the amount he had lost through the depreciation of the money paid to him as a salary. She has told her pathetic story over and over again to members of the committee and other Senators—session after session, year after year, for many years. She is now an old woman whose bodily and mental health is fading away under the long strain, the disappointment, the long-deferred hope, and sickness of heart. Her sweet face and thin figure haunt the corridors of the Senate Office Building year after year. I would be glad to see her receive something, even though it be a bounty or donation, but she has never been able to get a majority of the committee to authorize a favorable report of her claim. We shall miss her one of these days, when, with a broken heart, she shall have gone to join her broken-hearted husband in the grave.

Ah, Mr. President, shall we pass the cries of a poor woman like this unheeded and yet give ear to a demand like this of the Cramp Shipbuilding Co., because it is great and powerful and can secure the services of lawyers and lobbyists and recommendations from men of high station and influence? Shall we refuse to give to a beautiful, sweet-faced, broken-hearted woman a pittance of \$5,000 and then grant to this great company a bounty or donation of \$135,000? I do not believe the Senate will do such a thing as that.

The Committee on Claims was not in favor of doing it, and made this report.

I insist on the indefinite postponement of this bill.

Special privilege leads to just such unjust discriminations as this, and I say to you that the American people are determined to abolish special privilege. This is a good place to begin.

I ask for a vote on the motion to indefinitely postpone the bill.

Mr. SMOOT. Mr. President, just a word. I agree with the Senator that the contract was specific, and I so stated in the opening. It was found by the Court of Claims that it was specific, and the bill does not provide for any of the items mentioned by the Senator, with the exception of those that were found to be due the company by the Court of Claims.

Mr. CRAWFORD. They are all set forth in the findings of the Court of Claims and in the record, and they are taken from the petition which the claimant had filed.

Mr. SMOOT. I said the bill does not include any item, with the exception of those items that the Court of Claims found was due the company.

Mr. CRAWFORD. Will the Senator permit me there to make just a comment in three words?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The title of this bill contains a falsehood. The title of the bill purports to give effect to the judgment of the Court of Claims in favor of the contractors for building the United States battleship *Indiana*, when at the time the bill was introduced there were no such findings in its favor, because they had been reversed by the decision of the Supreme Court of the United States, and until we went in and found that decision of the Supreme Court reversing those findings the Senate might have been led, from the title of the bill, into a belief that it was resting upon the valid findings and judgment of the Court of Claims.

Mr. SMOOT. I simply want to state again that the bill provides for one hundred and thirty-five thousand and some odd dollars, and that was the amount the Court of Claims found due the Cramp Co., and the items are stated in detail by the Court of Claims in the findings.

I admit, as I stated before, that the Supreme Court of the United States reversed the judgment of the Court of Claims. I did, however, refer to a letter from Justice Brewer, who wrote the opinion, in relation to what the reasons of the Supreme Court were in reversing the decision.

Mr. CRAWFORD. Will the Senator permit me?

Mr. SMOOT. Certainly.

Mr. CRAWFORD. The letter from Mr. Justice Brewer was drawn out by soliciting him in a letter written to him by the attorney of record in the Cramp ship case, who was disappointed over his loss of the decision in the Supreme Court.

Mr. SMOOT. I do not know what drew it out. I can not say. But I say this copy of the letter is in the report, and I made my report upon the bill based upon all the information that I could receive from the Navy Department officials.

I wish to say to the Senator that it makes no difference to me who the person is or what company it is that tries to collect a claim from the Government of the United States, they all stand upon the same footing, whether it is a small claim or whether it is a large claim. If it is a just claim it should be paid, and if it is an unjust claim it ought not to be paid.

Mr. President, without taking the time of the Senate further, I ask that, in connection with what I have just stated, the report submitted by me in 1908 be printed as a part of my remarks. That report gives a complete history of this case from the standpoint of the Navy Department officials. As I have already said, this company is only asking the same treatment the Government has already accorded to other concerns which found themselves in exactly the same condition. They were all paid by the Government, with the exception of Cramp & Sons.

The PRESIDING OFFICER (Mr. NELSON in the chair). Without objection, the report referred to will be printed in the Record.

The report referred to is as follows:

Mr. SMOOT, from the Committee on Claims, submitted the following report, to accompany S. 3126:

The Committee on Claims, to whom was referred Senate bill 3126, have had the same under consideration and beg leave to submit the following report:

This is a claim by the builders of the battleship *Indiana* seeking reimbursement of the expenses they were put to for the care, maintenance, preservation, insurance, and wharfage during a delay of two years after the expiration of the contract period, brought about by the failure of the United States to furnish them with the armor "in the time and in the order necessary to carry on the work properly," as it had covenanted and agreed to do. The Court of Claims, after a protracted trial, found that the necessary and reasonable costs during this delay, which they found was solely and entirely due to the fault of the United States, amounted to \$177,823.55, but on account of a release given on May 10, 1894, at the time of an advance payment, by which the builders agreed to waive so much of the claim as accrued prior to that date, the court allowed only the expenses incurred after that date for a period of one year six months and nine days, and gave judgment for the sum of \$135,560. (See findings of Court of Claims accompanying this report marked "Exhibit A.") The case was appealed to the Supreme Court, and that court reversed the judgment upon the sole ground that a final receipt and release given May 19, 1896, upon the payment to the builders of the balance of the contract

price, viz., \$41,132.80, was intended by the parties to be a final settlement of the present claim, which the Court of Claims found amounted to \$177,823.55 additional. The equities were not considered by that court, as fully appears in the correspondence between Mr. Justice Brewer, who delivered the opinion, and one of the counsel for the company, accompanying this report, marked "Exhibit B."

The builders now ask that Congress, upon equitable grounds, shall reimburse them for these expenses, and they file in support of their petition the affidavits of ex-Secretary of the Navy, Gen. Tracy; his assistants, Admiral Hiebhorn, Chief of the Bureau of Construction, and ex-Naval Constructor Nixon, who designed the vessel, being all the Government officers that had any part in the preparation of the contract; of ex-Secretary Herbert, who took the receipt, and Mr. Charles H. Cramp, president of the company, who signed both contract and receipt, each and all unanimously declaring in specific terms that it was never the intent of either of the parties to the contract, by the giving or accepting of the receipt, to in any way waive, bar, or settle the claim now presented. (See Exhibits C, D, E, F, and G herewith.)

This evidence was not before the Supreme Court, and the facts now presented differ in this material respect from the case as presented to that court. The delays in furnishing the armor were caused by the praiseworthy desire of Secretary Tracy to obtain for these new vessels of war the most invulnerable armor that it was possible to procure. At that time the subject of armor plate was in its infancy and new processes of its manufacture were being devised and presented to the department for adoption. A series of exhaustive tests and experiments were made, which consumed most of the contract period, and it was not until February, 1893, that the Secretary finally adopted the nickel-steel harveized armor, and that surpassed all armor in any of the navies of the world. These delays had a similar effect upon the builders of the *Oregon*, *Maine*, *Terror*, and *Texas*, and these were the only vessels that were delayed from this cause aside from the *Indiana* and *Massachusetts*, built by the Cramp Co. The Richmond Locomotive Works, builders of the machinery for the *Texas*, and N. E. Palmer & Co. (the Quintard Iron Works), builders of the machinery of the *Maine*, have both been reimbursed by special acts of Congress on the recommendation of Secretaries Herbert, Morton, and Moody—notwithstanding they signed precisely the same final receipts and releases. (See Richmond case, 30 Stat., 1431; Palmer case, 33 Stat., 1397.)

The Pneumatic Gun Carriage Co., builders of the *Terror*, recovered judgment in the Court of Claims, notwithstanding they signed the identical form of final receipt and release, that court holding, as it did in the *Indiana* case, that it did not relate to this class of claims, and Attorney General Griggs acquiesced in that decision and declined to appeal the case, and that company was paid. (36 C. C. Rep., p. 71.) The Union Iron Works, by a supplemental contract relieved the United States of its obligation to take the vessel without armor, as Article III of the contract provided, and in lieu thereof accepted a contract with Secretary Tracy by which the United States was to pay these expenses monthly as the delays occurred, and that company was so paid. (See affidavit ex-Secretary Tracy, Exhibit C.) The Cramp Co. relied upon the obligation of the United States to take the vessel without armor, under Article III, and the Secretary concurred in this view of the obligation of the United States and went so far as to detail officers to supervise the erection of temporary facilities to take the vessel to sea and weight it down to its normal draft, which was done at an additional expense to the builders of \$17,000 (see twelfth findings, Court of Claims, Exhibit A), but on May 1, 1894, he arbitrarily refused to permit a trial trip to be made because, in his judgment, the interests of the United States would be best subserved by delaying the trial trip until the vessel was fully completed, with all the armor on.

It is shown by the affidavits of Admiral Hiebhorn (Exhibit D) and Secretary Tracy (Exhibit C) that the United States had no navy yard at which these vessels could be taken care of. It may be that the company had the right to cut the vessel loose and let her float down the Delaware River to its destruction, but the United States then owed the company upward of \$500,000 for work already performed and unpaid for, and the United States had already paid \$2,300,000 on account of its construction, and to save this amount of Government property from destruction the company yielded to the request of the Secretary and cared for, preserved, and maintained the vessel at their yard for an additional one year, six months, and nine days, at an expense of \$135,560, as found by the Court of Claims. Your committee can not believe that the company should now be punished for the performance of this most praiseworthy and patriotic action, nor should the technical receipt be held to prevail over the conspicuous equities of the case. It may be true that a contractor should be careful in the wording of papers that he signs, but if through want of care or inadvertence the receipt does not express the real intent of the parties to it, it would be extremely unfair, if not positively dishonest, for one of the parties to try to enforce it against the other contrary to the intent of both.

Your committee therefore report back Senate bill 3126 favorably and recommend that it do pass.

EXHIBIT A.

FINDINGS OF FACT BY THE COURT OF CLAIMS.

[Court of Claims. No. 20858. (Decided January 29, 1906.) The William Cramp & Sons Ship & Engine Building Co. v. The United States.]

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following

FINDINGS OF FACT.

I. The claimant herein is a corporation incorporated under the laws of the State of Pennsylvania, and carries on the business of ship and engine building, with its yards and plant and works located in the city of Philadelphia, in said State.

II. On November 19, 1890, the claimant entered into a contract with the United States, through their Secretary of the Navy, whereby, in consideration of the sum of \$3,063,000, to be paid as provided in said contract, it agreed to construct and complete within three years from said date as in said contract provided, a seagoing, coastline battleship, designated as No. 1, and subsequently named the *Indiana*, all in accordance with the specifications attached to and made a part of said contract, which contract, marked "Exhibit W. C. & S. No. 1," is annexed to and made a part of the petition herein.

III. Immediately after the making of said contract the claimant arranged and systematized a working program for the construction of said vessel by organizing its working force so as to cooperate with each

other in harmony on coordinate work, and to secure economy in the construction of the vessel within the contract time and to escape the penalties imposed thereby for delays. The claimant would have completed the vessel within the contract period if it had not been for the failure of the United States to furnish materials within the time and in the order to properly carry on the work, which by the terms of the contract they had agreed to furnish.

By reason of the failure of the defendants to furnish the materials, which by the third clause of the contract they had agreed to furnish, within the time and in the order as aforesaid, the completion of the vessel was delayed for two years beyond the contract period.

The armor to be furnished in accordance with said clause of the contract was obtained by the defendants from other contractors, who, without any fault on the part of the claimant, failed to complete the manufacture thereof in time for the defendants to deliver the same to the claimant as they had agreed to do.

The various kinds of armor, including the necessary bolts, nuts, etc., were delivered as follows:

- Diagonal armor, beginning June 6, 1892, and ending July 3, 1892.
- Casemate armor, beginning March 16, 1893, and ending May 1, 1893.
- Conning tower tube, May 1, 1893.
- Barbette armor, beginning July 10, 1893, and ending September 23, 1893.
- Sponson armor, beginning December 2, 1893, and ending March 24, 1894.
- Ammunition tubes, beginning April 24, 1894, and ending May 22, 1894.
- Eight-inch turret, beginning September 22, 1894, and ending December 7, 1894.
- Conning tower shield and covers, complete, October 5, 1894.
- Side armor, beginning August 13, 1894, and ending August 6, 1895.
- Thirteen-inch turrets, beginning May 10, 1895, and ending September 5, 1895.

IV. On December 4, 1895, and after the completion and delivery of the vessel at the time hereinafter stated, the Secretary of the Navy decided that the cause of delay for the period of two years in the completion of the vessel was due to the failure of the United States to furnish the claimant the materials contracted to be furnished by them within the time and in the order to properly carry on the work; and for that reason the time within which to complete the vessel, and thereby release the claimant from the penalties provided for in the nineteenth paragraph of the contract, was on said date extended by the Secretary of the Navy a corresponding length of time, to wit, to November 10, 1896, on which latter date the vessel so contracted for was completed and delivered.

V. On May 10, 1894, before the Secretary of the Navy had finally decided the cause of delay, as aforesaid, and before there had been a preliminary or conditional acceptance of the vessel, owing to the failure of the defendants to furnish, in the order required, the material which they had agreed to furnish, the contract was modified, which modification is made a part of the petition herein and marked "Exhibit W. C. & S. No. 2," by the terms of which modification the defendants agreed to pay the claimant a portion of the reservations of installments, which under the original contract were not payable, as therein set forth, until after a preliminary or conditional acceptance of the vessel; and \$234,830, being the amount of the reservations of the first 23 out of the 27 installments earned by the claimant, were paid on or about June 20, 1894. The claimant, as provided in the modification aforesaid, furnished security against any loss to the defendants on account of such payment, but no demand for any refund was ever made upon it. In consideration of the payment aforesaid, the claimant, as recited in said modification, released the defendants "from all and every claim for loss or damage hitherto sustained by reason of any failure on the part of the" defendants to comply with its contract, "or on account of any delay hitherto occasioned" by them.

To the modification of the contract and the release as aforesaid the claimant at the time does not appear to have made objection or protest.

VI. On May 18, 1896, after the completion and delivery of the vessel, in accordance with the sixth paragraph of the nineteenth clause of the contract, the balance of the money due thereunder, but withheld in accordance therewith until the final acceptance of the vessel, was paid to the claimant and the same was accepted and a release and receipt was executed therefor by it in the terms following:

"Whereas by the eleventh clause of the contract dated November 19, 1890, by and between the William Cramp & Sons Ship & Engine Building Co., a corporation created under the laws of the State of Pennsylvania, and doing business at Philadelphia, in said State, represented by the president of said company, party of the first part, and the United States, represented by the Secretary of the Navy, party of the second part, for the construction of a seagoing coast-line battleship of about 10,000 tons displacement, which, for the purpose of said contract is designated and known as 'coast-line battleship No. 1,' it is agreed that a special reserve of \$60,000 shall be held until the vessel shall have been finally tried; provided that such final trial shall take place within five months from and after the date of the preliminary or the conditional acceptance of the vessel; and

"Whereas by the sixth paragraph of the nineteenth clause of said contract it is further provided that when all the conditions, covenants, and provisions of said contract shall have been performed and fulfilled by and on the part of the party of the first part, said party of the first part shall be entitled, within 10 days after the filing and acceptance of its claim, to receive the said special reserve or so much thereof as it may be entitled to on the execution of a final release to the United States in such form as shall be approved by the Secretary of the Navy of all claims of any kind or description under or by virtue of said contract; and

"Whereas the final trial of said vessel was completed on the 11th day of April, 1896; and

"Whereas all the conditions, covenants, and provisions of said contract have been performed and fulfilled by and on the part of the party of the first part:

"Now, therefore, in consideration of the premises, the sum of \$41,152.86, the balance of the aforesaid special reserve (\$60,000), to which the party of the first part is entitled, being to me in hand paid by the United States, represented by the Secretary of the Navy, the receipt whereof is hereby acknowledged, the William Cramp & Sons Ship & Engine Building Co., represented by me, Charles H. Cramp, president of said corporation, does hereby for itself and its successors and assigns, and its legal representatives, remise, release, and forever discharge the United States of and from all and all manner of debts, dues, sums and sums of money, accounts, reckonings, claims, and demands whatsoever,

in law or in equity, for or by reason of, or on account of, the construction of said vessel under the contract aforesaid.

"In witness whereof I have hereunto set my hand and affixed the seal of the William Cramp & Sons Ship & Engine Building Co. this 18th day of May, A. D. 1896:

"[SEAL.]

"Attest:

"CHAS. H. CRAMP, President.

"JOHN DOUGHERTY, Secretary."

to the giving of which release and receipt the claimant does not appear at the time to have objected or protested.

VII. Before and during the period of delay, as aforesaid, the claimant's business was so large that in order to obtain more room for materials for the vessels under construction at the claimant's yard, of which the *Indiana* was one, it purchased additional ground at a cost of \$121,756.03, and erected thereon temporary shops, in which to handle and rehandle material, at an additional cost of \$3,000. It is not shown that the purchase of said real estate was necessary to the construction of the *Indiana*, or that any portion of the outlay therefor was attributable to the vessel during the period of delay.

VIII. After the expiration of the contract period and during the two years that the vessel was delayed in completion, as hereinbefore found, the reasonable value for the use of the claimant's yard, machinery, and for superintendence in the construction of the vessel, including the general upkeep of the yard chargeable to the *Indiana*, was \$3,000 per month, or \$72,000 for the two years' delay.

The proportion of said expenses chargeable to the *Indiana* from May 10, 1894, the date of the release set forth in Finding VI, being for one year six months and nine days, was \$54,887.67.

IX. For the proper care and protection of the vessel during the two years' delay, including expense of cleaning the bottom, furnishing material and painting, temporary awnings and tents over caps left for the introduction of turrets, additional scaling to remove rust before painting, electric lighting, keeping up steam to prevent freezing of valves, wetting down decks, going over machinery, and keeping vessel free from snow, dust, ice, and debris, the reasonable cost was \$48,000.

The proportion of said expenses for the period from May 10, 1894, being for one year six months and nine days, was \$36,591.78.

X. The customary rate of wharfage of merchant vessels at the port of Philadelphia during the time the *Indiana* was being constructed was 1 cent per net registered ton, and upon that basis, if allowed, the wharfage on the *Indiana*, with a net tonnage which we find was 3,203.58, during said two years' delay was \$32 a day, or \$23,360.

The proportion of expense during the period from May 10, 1894, being for one year six months and nine days, was \$17,808, inclusive of the dredging of the basin or bed in which to accommodate the vessel.

The claimant also incurred an expense of \$5,783 for tug service in removal of the vessel from time to time. Such expense is not shown to have been necessary to the construction of the vessel during the period of delay. It appears to have been for the benefit and convenience of the claimant.

XI. During the two years' delay the claimant was required to and did keep the vessel insured for the benefit and protection of the United States, and the reasonable cost thereof aggregated during said period the sum of \$34,463.55.

The proportionate expense for the period from May 10, 1894, being one year six months and nine days, was \$26,272.55.

XII. March 23, 1894, the claimant notified the Secretary of the Navy that the vessel, other than the fitting of the armor, had reached a stage of completion ready for an official trial and proposed to offer said vessel therefor between May 1 and 10 following.

Seven other vessels built by the claimant for the United States had been permitted to go on trial trips before their completion. The *Indiana* was the first battleship constructed, and before the armor was completed thereon the claimant proposed an official trial.

March 9, 1894, the Secretary of the Navy addressed to the claimant the following letter:

WASHINGTON, March 9, 1894.

GENTLEMEN: In view of the fact that the trial of the *Indiana* will take place at an early date, and as you are probably now making preparation therefor, your attention is invited to the tenth clause of the contract for the construction of that vessel, which provides that the expenses of a successful trial of the vessel shall be borne by the Government.

With a view to an expeditious settlement of the bill for the trial expenses of the vessel after the trial shall have taken place, the department has to-day directed Chief Engineer J. W. Thomson and Naval Constructor J. F. Hanscom, United States Navy, to inform themselves as to what expenses you incur in preparing the vessel for trial, on the trial, and in furnishing the supplies of all kinds to be used, in order that they may be able to report to the department after such examination, if any, as they may be required to make of your bill as to whether the items included therein are properly chargeable to the Government, and as to whether the prices charged therefor are proper and reasonable.

The department requests that you will confer with the above-named officers in regard to the expenses necessary to be incurred in the trial of the *Indiana* and afford them such information as will enable them to fully comply with the department's instructions, as above stated.

Very respectfully,

H. A. HERBERT,
Secretary of the Navy.

The WILLIAM CRAMP & SONS
SHIP & ENGINE BUILDING CO.,
Philadelphia, Pa.

The expense so incurred was verified by such officers and no objection was found to the amount thereof. But in the meantime the Secretary of the Navy was in doubt as to whether the vessel was ready for such official trial, and to ascertain that fact did, on April 12, 1894, appoint a board, consisting of three naval officers, to inquire into the matter.

The board made such inquiry, and on April 18, 1894, reported to the Secretary that the hull of the vessel was about eighty-four one-hundredths completed, and that but one-half of the armor had been fitted in place. The board unanimously reported that the vessel was not then and would not be by May 1, 1894, ready for the official trial trip in accordance with the tenth article of the contract, and that such trial should not, in the interest of the Government, take place until the vessel was fully completed and ready for delivery.

Upon that report the Secretary acted, refusing to give his approval to the proposed trial, and the same was not made.

If the claimant is entitled to recover the expense so incurred in the preparation for the preliminary trial of the vessel, the amount as verified by the officers of the Navy and which we find reasonable was \$17,514.94.

XIII. The items of cost and expense set forth in the several findings herein, both upon the basis of two years' delay and of one year six months and nine days' delay, are as follows:

| Find- ing. | Item. | Two years. | One year 6 months and 9 days. |
|---------------|---|-------------|-------------------------------------|
| VIII | Superintendence and upkeep of yard..... | \$72,000.00 | \$54,887.67 |
| IX | Protection of vessel, cleaning, painting, etc.... | 48,000.00 | 36,591.78 |
| X | Wharfage of vessel..... | 23,300.00 | 17,808.00 |
| XI | Insurance on vessel..... | 34,463.55 | 26,272.55 |
| | | 177,833.55 | 135,560.00 |

CONCLUSION OF LAW.

Upon the foregoing findings of fact the court decides as a conclusion of law that the claimant is entitled to recover against the United States the loss and damage sustained by it during the delay of one year six months and nine days, as set forth in Finding XIII, the sum of \$135,560.

EXHIBIT B.

LETTER OF MR. JUSTICE BREWER, SUPREME COURT.

SUPREME COURT OF THE UNITED STATES,
Washington, D. C., December 17, 1907.

MY DEAR MR. FAY: Do not think I have neglected the matter to which you called my attention a few nights since. I spoke first to some of the brethren individually and finally I brought the matter up before the court in conference. The brethren without dissent advised me not to write the letter you suggest. There is nothing in the opinion which ignores the equity upon which you rely and of course nothing to intimate that Congress can not if it sees fit grant all the relief desired.

The brethren thought it would be unwise to intimate that Congress might or ought to act in the matter, and prefer to leave it for the action of that body, based upon such showing of the facts as can be made. It is not to be supposed, of course, that Congress will not be willing to do what is right in the premises.

I return herewith the inclosures in your letter, thinking that you may have use for them in your further efforts.

Very truly, yours,

DAVID J. BREWER.

HON. JOHN C. FAY,
Glover Building, 1439 F Street.

EXHIBIT C.

AFFIDAVIT OF HON. BENJAMIN F. TRACY, EX-SECRETARY OF THE NAVY.
STATE OF NEW YORK.

County of New York, Borough of Manhattan, ss:

Benjamin F. Tracy, being duly sworn, says:

That he was Secretary for the Department of the Navy of the United States during the administration of the late President Harrison.

That as such Secretary, under the provisions of the act of Congress approved June 30, 1890, for the building of battleships for the Navy, he, on or about the 19th day of November, 1890, entered into three contracts for the building of battleships designated as Nos. 1, 2, and 3; said battleships were to be built according to the same plans and specifications and were identical in all respects. Contracts for battleships Nos. 1 and 2, subsequently named the *Indiana* and the *Massachusetts*, were made with the William Cramp & Sons Ship & Engine Building Co., of Philadelphia, Pa. A contract in identical form for battleship No. 3, afterwards named the *Oregon*, was made with the Union Iron Works, of San Francisco, Cal. By provisions in these three contracts the United States was to furnish all the heavy armor and each vessel was to be completed within three years from the date of contract, under onerous penalties against contractor for delay, the United States agreeing to furnish the armor and their accessories within the "time and in order to carry on the work properly." Each contract provided for the accepting of the vessel by the United States without armor in case its building was delayed by the default of the United States in furnishing armor, and each contract provided in similar terms for a final receipt of all claims of any kind or description under or by virtue of the contract.

Before and at the time of making these contracts "all-steel" armor had been the standard in the Navy, it being considered the best then known, but in 1889 his attention had been directed to nickel steel and the so-called Harvey process, and early in 1890 he had begun an investigation as to their respective merits which had proceeded so far as to have resulted in a comparative test between the compound steel, the all steel, and the nickel steel at Annapolis, September 18-22, 1890, as set forth in his annual report of 1890, and in consequence Congress had appropriated \$1,000,000 for the purchase of nickel metal; but deponent was unwilling to determine definitely upon the character of armor to be applied to the new battleships without further tests, experiments, and investigation both as to nickel steel and the Harvey process, and to leave the department free to continue these investigations when he came to make the contracts of November 19, 1890, for the *Indiana*, *Massachusetts*, and *Oregon*, the proviso of Article III, binding the Government to accept the vessels without armor, if the United States was unable to supply it in the time and in the order to carry on the work properly, was inserted so as not to impose upon the builders the necessary expense of the care of the vessels during the time required for the Government experiments calculated to obtain the very best armor.

After these contracts were let he proceeded with further tests of both nickel steel and the harveyized nickel steel and the various other kinds of armor, which continued up to July 30, 1892, as set forth in detail in his annual reports of 1890, 1891, and 1892, before he reached the conclusion to adopt the harveyized nickel-steel armor, and, accordingly, in February, 1893, made contracts for the production of this character of armor. During all this time the coordinate work on these vessels had been progressing satisfactorily to the department, and it became evident that this decision would result in a very considerable delay in their completion, and that the necessary cost of their care, maintenance, preservation, insurance, and extra dockage and wharfage during this period of delay would amount to a large sum, and the United States having no proper facilities at its navy yards to take over these vessels in their unfinished condition and care for and complete them, all of which being brought to his attention by the builders of the *Oregon*, he entered into the supplemental contract attached hereto with that company, by which these several expenses were to be currently ascertained and paid by the United States, and he is informed and believes they were so paid. That a similar supplementary contract

would have been made by him with the Cramp Co. for the *Indiana* and *Massachusetts* if it had been brought to his attention.

That the sixth clause of Article XIX of the contract was an old form that had been in use in Navy contracts for many years, and while it was very properly applicable when the builder furnished all the material and labor for the construction of a vessel, was not, standing alone, very appropriate for a contract where part of the material was to be furnished by the United States; but it was never intended by him to impose upon the builder the loss, expense, or damage that accrued to it by reason of the failure of the United States to perform its part of the contract. He can confidently state that at the time of making these contracts that, by providing for this final receipt and release, it was not the purpose, intent, or design of either party to the contract that it should extend to or cover damages which the contractor might sustain by reason of the failure of the Government to perform the contract on its part, nor is he aware that the department in any case has so construed a similar final release or receipt.

BENJAMIN F. TRACY.

Subscribed and sworn to before me this 31st day of October, A. D. 1907.

[SEAL.]

CHAS. A. CONLON,
Notary Public, New York County.

EXHIBIT D.

AFFIDAVIT OF ADMIRAL PHILIP HICHBORN, UNITED STATES NAVY, RETIRED,
LATE CHIEF OF THE BUREAU OF CONSTRUCTION AND REPAIR.

DISTRICT OF COLUMBIA, ss:

Philip Hichborn, of the city of Washington, being duly sworn, says: That he is on the retired list of the United States Navy, having been retired while chief constructor, after a service in its construction corps of more than 30 years.

That he was intimately connected with the building of the so-called "New Navy" from its inception to the time of his retirement from active service, as member of the Naval Advisory Board, Assistant to Chief, and afterwards Chief of the Bureau of Construction and Repair.

That during the preparation of the contracts for the *Indiana*, *Massachusetts*, and *Oregon* he was, either personally or through his assistants, in constant communication with the Secretary and the Judge Advocate General as to their terms, but more particularly as to technical parts of it, although the whole contract was referred to him for examination and report and was carefully examined and considered before it was finally signed.

That he distinctly recalls the fact that Article III, providing for a trial trip without armor, was fully discussed, and its purpose to avoid entailing the costs and expenses arising from delays in the delivery of armor upon the contractors was well understood by all parties connected with the contract, and some additional language was inserted at Mr. Cramp's suggestion to render the understanding clearer.

The sixth clause of Article XIX was an old form in use for many years in the Navy Department, and at no time during the preparation of the contract did he ever hear any of the officers of the department who had any hand in the preparation of the contract suggest that it might be so construed as to require release of any damages that might accrue to the contractors from any breach of the contract on the part of the United States as a condition to final payment; he certainly did not so understand it, nor does he believe that if such a construction of that clause had been avowed by the department, it would have been able to have secured a contract from any responsible shipbuilding concern in the country.

That after the armor had been so long delayed and the contract time had expired, and the time within which the armor could be secured was indefinite and uncertain, the company, under the special direction of officers of the Navy, charged with that duty by direction of the Secretary of the Navy, proceeded to install temporary work and weight down the *Indiana* for a trial trip without armor, under the provisions of the third article of the contract, and expended some \$17,000 in such work, took her on a contractors' trial trip, and tendered her for official trial.

That deponent thought that such a trial in her unfinished condition would be of great service in developing the vessel and exhibiting any weak places or errors in design, and was strongly in favor of submitting her to trial irrespective of the provisions in the contract so to do, but the United States was not then equipped to take charge of the vessel and care for her during the subsequent delay which it was then well known was certain to continue for a very considerable length of time, and the Secretary, for reasons satisfactory to himself, through other agencies than the Bureau of Construction and Repair, declined to permit her to make a trial trip until finally completed.

Deponent further says that after the completion and acceptance of the vessel he was called upon to make up the final account, and in so doing he made no allowances for damages for delay, nor was the matter at all considered or embraced in the final account, for the reason that it had long been held in the department that the department had no authority or jurisdiction to entertain, audit, or consider such claims, nor was any appropriation available for their payment; that all claims of such character that had been or afterwards were during his term of office considered or audited by the department had been under special legislation giving the department jurisdiction in certain specified cases.

That he personally, by direction of the Secretary, examined the claim of the *Indiana*, and made a report to the Senate committee in the Fifty-fourth Congress, and from his examination he is able to say that the allowance by the Court of Claims is, in his judgment, fair and reasonable, and leaving out the item that he was unwilling to pass on for lack of evidence, and which was allowed by the court, an analysis of the award of the court shows it to be less than the report made by him as Chief of the Bureau of Construction and Repair.

PHILIP HICHBORN.

Sworn and subscribed to before me this 5th day of November, A. D. 1907.

[SEAL.]

GEORGE J. JOHNSTON,
Notary Public, District of Columbia.

EXHIBIT E.

AFFIDAVIT OF EX-NAVAL CONSTRUCTOR LEWIS NIXON.

STATE OF NEW YORK, Borough of Manhattan:

Lewis Nixon, of Tompkinsville, Staten Island, State of New York, being duly sworn, says that he is by occupation a shipbuilder; that he graduated at the United States Naval Academy at Annapolis, and the Royal Academy at Greenwich, England, and served in the United States Navy as an assistant naval constructor to about January 1, 1891; that in 1890 he was ordered to the Bureau of Construction and Repair in Washington, and was assigned to the duty of designing and preparing

the plans and specifications of the coast-defense battleships provided for under the act of June 30, 1890, which designs were adopted, and the *Indiana*, *Massachusetts*, and *Oregon* were built thereunder; that in the formulation of the contracts for these vessels he was in constant and almost daily consultation with both Secretary Tracy and Judge Advocate General Remy; that he was deeply interested in the successful building of these battleships, both from a professional as well as a patriotic standpoint, and took great care and aimed to insert such stringent provisions as were calculated to stimulate the builders to great energy in speedily constructing the vessels, but not so harsh and unjust that might deter a shipbuilder from undertaking a contract, and with this end in view, at his suggestion, the obligation of the United States to furnish the armor at the time and in the order to carry on the work properly and the provision that, in default of so doing, the vessel was to be accepted without armor, were inserted, and to free this clause from any ambiguity the words "and to continue with reasonable diligence" were afterwards added in manuscript in the printed contract at the suggestion of Mr. C. H. Cramp before he signed the formal contract.

If this provision of the contract had been lived up to by the United States, no part of the claim or damage sued for in the Court of Claims ever would or could have arisen in behalf of the Cramp Co. for the expense of the care, preservation, and maintenance of the vessels which did accrue by reason of the delay in furnishing the armor would have been borne by the United States, as the contract intended to provide that it should be; that from his personal connection with the preparation of the contract and his intercourse and consultation with the Secretary and the Judge Advocate General he can confidently state that it never was the intention of the United States, as represented by its officers, as parties to the contract, that the provision for a final release, embodying in it as a condition precedent to the payment of the balance of the contract price, to require the release of or cover any claim for damage arising out of the breach of contract by the United States or exempt the United States from the cost and expense of the care, preservation, and maintenance of either of these vessels during the period of enforced delay occasioned by the inability of the United States to fulfill its part of its contract.

That shortly after the making of the contract, the Cramp Co. tendered to him the position of superintendent of their yard to supervise the building of these vessels, and, in his anxiety to see his designs successfully carried out, he resigned from the Navy, accepted the offer and built two of these vessels, the *Indiana* and *Massachusetts*. That when the delays began to accrue he pushed the coordinate work so that the vessels should have a preliminary trial trip, and with the sanction of the Secretary of the Navy and under the supervision of two naval officers specially directed by the Secretary to supervise the temporary work necessary to take the vessel to sea, performed all such necessary work on the *Indiana* and weighed her down to her normal draft, at an expense of \$17,000, took her to sea on her contractors' trial trip and tendered for official trial, ready in all respects to make such trip without her armor; but the Secretary of the Navy declined to allow her to make a trial trip unless fully completed, utterly ignoring the provisions of article 3. That during all the time of the delays he had frequent consultations with the officers of the Construction Bureau and the Secretary, and while it was frankly conceded by all of them that very serious expenses were being necessarily incurred by reason thereof, it never was intimated that, by any construction of the contract, such expense was to be borne by or claim for them was to be waived by the contractor.

LEWIS NIXON.

Sworn and subscribed before me this 30th day of October, A. D. 1907.
[SEAL.] LAURA E. SMITH,
Notary Public, Kings County.

(Certificate filed in New York County.)

EXHIBIT F.

STATEMENT OF HON. H. A. HERBERT, EX-SECRETARY OF THE NAVY.
WASHINGTON, D. C., December 16, 1907.

DEAR SIR: At the request of Messrs. Hunton & Creecy, I am condensing in a letter to you a statement made more at length in the correspondence between them and myself, which is to be filed with the committee.

Under the contract for the construction of the *Indiana* and all other armored ships the Government was to furnish and deliver at times and places as needed all heavy armor. When I became Secretary of the Navy the Government was far behind with its deliveries of armor for the *Indiana*, partly by reason of delays on the part of the armor contractors and partly because of experiments with a new process of harveizing, which had been begun under Secretary Tracy and which were continued under me, thus causing further delay.

The Cramp Co., builders of the *Indiana*, in August, 1893, earnestly protested against further delay, asked to be furnished with nickel steel armor, as previously decided upon. On August 25, 1893, I, as Secretary, replied:

"The department thinks it for the best interests of the service that this armor should be harveized, even if it should occasion some delay in the completion of the vessel, as you state."

I was deciding solely what was to the interests of the Government. The question of compensation to the contractors for losses that might result to them from enforced delays was not before me, nor had I as an executive officer any jurisdiction over that matter. But whenever I had occasion subsequently to consider this matter, my every act and deed showed that in my opinion the Government was responsible to the builders for all losses caused by its failure to comply with its contracts to deliver armor when required to do so under its contracts.

When, on May 10, 1894, I advanced to the Cramp Co. a considerable sum of money already earned but not then payable, I exacted from the company a release of the United States "from all and every claim for loss and damage hitherto sustained by reason of any failure" on their part or "on account of any delay hitherto occasioned by" their action.

The panic of 1893-94 was then on. The company was in urgent need of the money, and I thought the release of their claim for damages on account of the Government's delay was a valuable consideration for the advance payment of this money.

Again, on February 27, 1895, as Secretary I stated in a letter to the Naval Committee that I saw no objection to the passage of a bill which had been referred to me for the relief of the builders of the *Texas*, whose claim was exactly similar to that of the Cramp Co. in the matter of the *Indiana*.

Again, after this bill for the *Texas* was passed, Assistant Secretary McAdoo, December 20, 1895, reported that, "in the opinion of the

department," the contractors were "justly and equitably entitled to \$80,049.35."

Again, December 8, 1896, responding to an inquiry from Congress as to whether the claims of the builders of the *Indiana* and other vessels for damages incurred in like cases should be decided by Congress or the Court of Claims, as Secretary I stated that, "in my judgment, the interests of justice demand" that these cases should be referred to the Court of Claims, giving as my reason that the court could consider with more deliberation and care than the committees of Congress could.

Again, Chief Constructor Hichborn, then under me, February 9, 1897, recommended the payment of items on account of the losses of the *Indiana* of \$97,214.85, and this without considering, as he said, another large amount which he thought the committee was more competent than he to investigate.

Thus, without a break, every act of the department touching this matter, when I presided over it, showed that, in its opinion, the builders had a just claim for the losses resulting to them from delays caused by the Government in furnishing armor according to its contracts.

The Supreme Court, however, decided in the *Indiana* case that by the final release stipulated for in the building contract and given when the last payments were made, all claims for damages by the builders were released, although the Court of Claims had held otherwise.

That my view of this release was that taken by the Court of Claims and not that taken by the Supreme Court is clear from the following consideration:

In my letter transmitting the Cramp cases to Congress (see H. R. 816, 55th Cong., 2d sess.) I called special attention to the release of May 10, 1894, from all damages theretofore incurred in the case of the *Indiana* and to a similar release in the case of the *Massachusetts*. This I did because I thought it my duty to see that Congress, before taking any action, should have before it any written release that might have been given.

Per contra.—On December 8, 1896, when I expressed the opinion that the "interests of justice demanded" that these Cramp cases and others should be sent to the Court of Claims, the final release which the Supreme Court afterwards construed in the case of the *Indiana* had already been given, to wit, May 18, 1896.

If, in my opinion, at that time the Cramp Co. had released all claim for damages in writing by its receipt for the final payment, it would have been clearly my duty to call the attention of Congress to that fact. But this was not done, for the reason that it was not my opinion that the company had by its receipt for the last regular payments released the Government from the claim for damages which I was recommending should be sent to the Court of Claims.

Very respectfully,

H. A. HERBERT.

HON. C. W. FULTON,
Chairman Committee on Claims, United States Senate.

EXHIBIT G.

AFFIDAVIT OF MR. CHARLES H. CRAMP, EX-PRESIDENT THE WILLIAM CRAMP & SONS SHIP AND ENGINE BUILDING CO.

STATE OF PENNSYLVANIA:

Charles H. Cramp, being duly affirmed, says: That he was the president of the William Cramp & Sons Ship and Engine Building Co. during the period that company was building the battleships and cruisers for the new Navy of the United States, including the battleships *Indiana*, *Massachusetts*, and *Iowa*, and the cruisers *New York*, *Brooklyn*, and *Columbia*, all of which vessels were seriously delayed during their construction by reason of the failure of the United States to fulfill the obligations on its part assumed under the terms of the contract.

That at the time, in November, 1890, when the terms of the contract for the building of battleship No. 1, afterwards called the *Indiana*, were under consideration, he had frequent consultations with the chief constructor and his chief assistant and Secretary Tracy, and while the company agreed to submit to penalties for delay caused by it in the construction of the vessel, the United States agreed to take the vessel off the hands of the contractor in an unfinished condition in case the delays were caused by the United States. If these latter terms had been carried out there would have been no cost to the company for the care and preservation, insurance, wharfage, and similar items during the enforced delay brought about by the delay in furnishing the armor on the part of the United States, and there was never any intimation on the part of any officer of the Government in all the negotiations or during the contract period that the contract price included or was intended to include the expense of the maintenance, care, preservation, or other expenses made necessary by the delay after the contract term expired. The price fixed in the contract included nothing but the work provided for under the plans and specifications. There was never any understanding, agreement, or pretense on the part of either party to the contract that the final receipt covered or intended to cover anything except the construction of the vessel under the contract, and it was given and accepted with the full knowledge and understanding both of the Secretary of the Navy and the company that it was not intended to be any bar to the recovery by the company of the expenses of care, wharfage, insurance, etc., of the vessel during the time of the delay.

At the moment, May, 1896, when the receipt was signed there was pending in Congress a petition of the company for the passage of a law conferring on the Secretary of the Navy authority to audit and pay this identical claim. This was well known to the Secretary, and he had before that time recommended similar legislation in a similar case.

At the time of signing the receipt the Secretary conceded that the Government's delay had caused the company great loss, and that they had a valid claim for reimbursement, but held that he was without jurisdiction to pass upon it and without funds to liquidate it.

Enlightened by these surrounding facts and circumstances, it is not possible to construe the words of the receipt "for, or by reason of, or on account of the construction of the vessel under the contract" to embrace the claim for the care and preservation of the vessel, which was no part of the construction of the vessel and which did not arise by virtue of any provision in the contract or specifications. Neither party intended that it should, and the contemporaneous acts of both parties emphasized it.

The Secretary of the Navy had treated a partial release of this claim as a valid and valuable consideration for the payment of what he claimed to be an advance of money not yet due under the contract, and the company had presented it and were pressing it before Congress with the knowledge and acquiescence of the Secretary.

In May, 1894, the Secretary refused an official trial trip and declined to accept the vessel in an unfinished condition and refused to make further payments till a trial trip was had. The company had, under the eye of specially detailed officers, expended \$17,000 for temporary work so the vessel could be taken to sea and had made a con-

tractor's trial trip. The company was then in dire need of money. It was carrying more than a million and a quarter of dollars in loans at abnormal rates of interest, with a weekly pay roll of upward of \$10,000 a day and upward of 5,000 employees, which represented fully 20,000 persons dependent upon the continuation of work in the company's yard.

It was the time of financial panic, and to have thrown these men out of employment would have been a calamity to the city and State. To avert so disastrous a calamity, against his earnest remonstrance he was coerced into signing the special release of May 10, 1894, in order to receive, not an advance payment, for the money was then long overdue, but to save the company from threatened bankruptcy and the city and State from a disastrous calamity. Personal violence to him or imprisonment itself would not have been more potent in obtaining the release than were the circumstances that surrounded him at the time.

CHAS. H. CRAMP.

Affirmed and subscribed to before me at Devon, Pa., this 10th day of August, A. D. 1907.

[SEAL.]

ISAAC ARROTT, Notary Public.

(My commission expires February 29, 1909.)

The PRESIDING OFFICER. The question is, Shall the bill be indefinitely postponed?

The bill was indefinitely postponed.

ACADEMY AND INSTITUTE OF ARTS AND LETTERS.

Mr. LODGE. I ask that an order be made to recall from the House of Representatives two bills passed on Saturday last, because I find one bill precisely similar is here from the House. The Senator from New York [Mr. ROOR] has asked me to request the order. I ask that the bill (S. 4355) incorporating the National Institute of Arts and Letters and the bill (S. 4356) incorporating the National Academy of Arts and Letters be recalled from the House.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. KERN. I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, January 22, 1913, at 12 o'clock m.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 21, 1913.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Blessed be the name of the Lord our God, whose mercy is from everlasting to everlasting.

That God which ever lives and loves;
One God, one law, one element,
And one far-off divine event,
To which the whole creation moves.

Impart unto us of Thy grace sufficient unto the needs of this day, and help us by faith and confidence, by courage and fortitude, by the rectitude of our behavior, to hasten the coming of Thy kingdom upon the earth, that righteousness, peace, and good will may reign in every heart, through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

IMMIGRATION.

Mr. BURNETT. Mr. Speaker, I move that the House further insist upon its amendment to the bill (S. 3175) to regulate the immigration of aliens to and the residence of aliens in the United States, and agree to a further conference.

The SPEAKER. The Clerk will read the title of the bill.

The Clerk read as follows:

S. 3175. An act to regulate the immigration of aliens to and the residence of aliens in the United States.

The SPEAKER. The gentleman from Alabama [Mr. BURNETT] moves that the House further insist upon its amendment to the Senate bill and agree to a further conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. BURNETT, Mr. SABATH, and Mr. GARDNER of Massachusetts.

BUREAU OF MINES.

Mr. FOSTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table House bill 17260, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

H. R. 17260. An act to amend an act entitled "An act to establish in the Department of the Interior a Bureau of Mines," approved May 16, 1910.

Mr. FITZGERALD. What is this?

Mr. FOSTER. This is the Bureau of Mines bill.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to disagree to the Senate amendments and ask for a conference.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. FOSTER, Mr. WILSON of Pennsylvania, and Mr. HOWELL.

PENSIONS.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 27062 for the purpose of agreeing to the Senate amendments.

The SPEAKER. The Chair lays before the House the bill H. R. 27062, with Senate amendments. The Clerk will read the title.

The Clerk read the title of the bill, as follows:

H. R. 27062. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War, and to certain widows and dependent children of soldiers and sailors of said war.

Mr. RUSSELL. Mr. Speaker, I ask unanimous consent that the House concur in the Senate amendments.

The SPEAKER. The gentleman asks unanimous consent that the House concur in the Senate amendments. The Clerk will report the amendments.

The Senate amendments were read.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Senate amendments were concurred in.

CHARLES CURTIS AND WIFE.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of a privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 782 (H. Rept. 1352).

Resolved, That the Clerk of the House is hereby authorized to pay, out of the contingent fund of the House, the sum of \$211.50 to William S. Riley, for the funeral expenses of Charles Curtis, late an employee of the House, and of his wife, whose death occurred within three days after that of her husband, in lieu of the allowance usually made of funeral expenses not exceeding \$250.

Mr. LLOYD. Mr. Speaker, in this case the employee died during the holiday recess, leaving a widow, but in three days his widow died. Under the rule she would have been entitled to an amount equal to his salary for six months and the expenses of his funeral not exceeding \$250. He left no children, and this resolution provides for payment to the undertaker of the expenses of the funerals, both of Mr. Curtis and of his wife, the total of which does not equal the \$250 which is ordinarily allowed for the funeral expenses of an employee.

The resolution was agreed to.

LILLIE M. REESCH.

Mr. LLOYD. Mr. Speaker, I ask for the present consideration of another privileged resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Missouri offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 744 (H. Rept. 1354).

Resolved, That there shall be paid, out of the contingent fund of the House, the sum of \$600 to Lillie M. Reesch, for extra services rendered in connection with the sending out of blanks, receiving, filing, and compiling expense statements filed by the Members of Congress in accordance with H. R. 2958, "An act to amend an act entitled 'An act providing for publicity of contributions made for the purpose of influencing elections at which Representatives in Congress are elected,' and extending the same to candidates for nomination and election to the offices of Representative and Senator in the Congress of the United States and limiting the amount of campaign expenses."

Mr. MANN. What is this?

Mr. LLOYD. Mr. Speaker, this resolution provides for pay to a clerk in the office of the Clerk of the House for sending out the notices with reference to the statements required of the campaign expenses of Members and for compiling the statements after they were sent in. There is no provision of law for anyone to do this work, excepting that these statements are required to be sent to the Clerk. A vast amount of work has been done in connection with these statements, giving notice to Members, and filing and compiling the statements after their receipt by the Clerk. This resolution provides compensation to the lady who did it.

Mr. MANN. How much?

Mr. LLOYD. Six hundred dollars.

The resolution was agreed to.

C. L. GILBERT.

Mr. LLOYD. Mr. Speaker, I present the following privileged resolution.

The SPEAKER. The Clerk will report the resolution.